9/21/06

PETITION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY	*	IN THE
	*	CIRCUIT COURT
and	*	FOR
CROSS-PETITION OF DEBORAH TERRY, *et al*	*	BALTIMORE COUNTY
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE CO.	*	Co. Board Case Nos.: 04-600-SPH 04-508-SPH
IN THE MATTER OF: BALTIMORE COUNTRY CLUB	*	
v. DEBORAH TERRY, *et al*	*	Case No.: 03-C-05-012378AA
	*	

* * * * * * * * * * * * *

STIPULATION OF DISMISSAL WITH PREJUDICE

Appellants/ Appellees, Baltimore Country Club of Baltimore City, by and through its attorneys, G. Scott Barhight, Jennifer R. Busse and Whiteford, Taylor & Preston LLP; Deborah Terry, Fred Terry, Donna Dow, M.D., Joseph R.B. Tubman and Courtney Spies, Jr., by and through their attorneys, J. Carroll Holzer and Holzer & Lee; and Peter Max Zimmerman, Peoples Counsel for Baltimore County, hereby stipulate and agree that the above-entitled matter shall be dismissed with prejudice.

G. Scott Barhight
Jennifer R. Busse
Whiteford, Taylor & Preston, LLP
210 W. Pennsylvania Avenue, Suite 400
Towson, Maryland 21204-4515
(410) 832-2000
Attorneys for Baltimore Country Club of Baltimore City

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Baltimore, Maryland 21286
(410) 825-6961
Attorneys for Deborah Terry, Fred Terry, Donna Dow, M.D., Joseph R.B. Tubman, and Courtney Spies, Jr.

GJS

Exhibit 2 to Supplemental Agreement

Peter Max Zimmerman
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188
People's Counsel for Baltimore County

364223

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
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(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

cd
PMZ

September 21, 2006
#7458

RECEIVED
SEP 25 2006
PEOPLE'S COUNSEL

Peter Max Zimmerman, Esquire
People's Counsel for
Baltimore County
Old Courthouse, Room 47
400 Washington Avenue
Towson, Maryland 21204

RE: County Board Case Nos.: 04-600-SPH
04-508-SPH

Dear Pete:

Enclosed please find the Stipulation of Dismissal of our appeal to the Circuit Court. I would appreciate your signing it and returning it to me to present to Scott Barhight. The matter has been finalized, no appeal was taken from the Zoning Commissioner's approval and the case is over.

If you have any questions, please feel free to call.

Very truly yours,

J. Carroll Holzer

JCH:mlg

Enclosure

cc: Dr. Donna Dow

Done 9/26/06
PMZ

12/21/05

IN THE PETITION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	IN THE
	*	CIRCUIT COURT
	*	FOR
	*	BALTIMORE COUNTY
IN THE CASE OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY LEGAL OWNER/PETITIONER FOR A SPECIAL HEARING	*	
On property located on the N/S of Bomont Road at intersection with Mays Chapel Road (11500 Mays Chapel Road)	*	Case No.:
	*	
8th Election District 2nd Councilmanic District	*	
Case Nos.: 04-508-SPH & 04-600-SPH Before the County Board of Appeals	*	

* * * * * * * * * * *

BCC'S RESPONSE TO CROSS PETITION FOR JUDICIAL REVIEW

Baltimore Country Club of Baltimore City, by and through its undersigned counsel, and pursuant to Maryland Rule 7-204(a) submits this response to the Cross Petition for Judicial Review filed by Deborah and Fred Terry, Dr. Donna Dow, Joseph R. Tubman and Courtney Spies. Baltimore Country Club of Baltimore City was a party to Case Nos. 04-600-SPH and 04-508-SPH and intends to participate in the action for judicial review.

Respectfully submitted,

G. Scott Barhight

G. Scott Barhight
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2050

Attorney for Baltimore Country Club of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of December, 2005, a copy of the foregoing Response to Cross Petition for Judicial Review was mailed first class, postage prepaid to:

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

G. Scott Barhight

G. Scott Barhight

350898

WHITEFORD, TAYLOR & PRESTON L.L.P.

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gbarhight@wtplaw.com

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FAX 202 331-0573

115 ORONOCO STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 703 836-5742
FAX 703 836-5558

December 21, 2005

VIA HAND DELIVERY
Ms. Suzanne Mensch
Clerk, Circuit Court of Maryland for
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Cross Petition For Judicial Review:
In the Matter of Baltimore Country Club,
Baltimore County Board of Appeals
Case Nos.: 04-600-SPH and 04-508-SPH

Dear Ms. Mensch:

Enclosed please find an original and three (3) copies of BCC's Response to Cross Petition for Judicial Review to be filed in the above-referenced case. Please date stamp the extra copy and return it, as well as the receipt, to the courier.

If you have any questions or need further assistance, please do not hesitate to contact me.

Thank you for your assistance with this matter.

Sincerely,

G. Scott Barhight

G. Scott Barhight

Enclosure
GSB:ac
Cc: Baltimore County Board of Appeals
J. Carroll Holzer, Esq.

350903

RECEIVED
DEC 22 2005
BALTIMORE COUNTY
BOARD OF APPEALS

12/5/05

IN THE PETITION OF **BALTIMORE COUNTRY CLUB OF BALTIMORE CITY** FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY	*	IN THE CIRCUIT COURT
IN THE CASE OF **BALTIMORE COUNTRY CLUB OF BALTIMORE CITY** LEGAL OWNER/PETITIONER FOR A SPECIAL HEARING on property located on the N/S of Bomont Rd at intersection with Mays Chapel Rd (11500 Mays Chapel Road) 8th Election District, 2nd Councilmanic District	*	FOR BALTIMORE COUNTY
Case Nos. 04-508-SPH & 04-600-SPH Before the County Board of Appeals	*	Case No.: 03-C-05-12378

* * * * * * * * * * * * * *

RESPONSE TO PETITION FOR JUDICIAL REVIEW

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, in accordance with Maryland Rule 7-204, submits this response to the Petition for Judicial Review filed BALTIMORE COUNTY CLUB OF BALTIMORE CITY, LEGAL OWNER and states that it intends to participate in this action for Judicial Review. The undersigned was a party to the proceeding before the County Board of Appeals.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio /RMW

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 5th day of December, 2005, a copy of the foregoing Response to Petition for Judicial Review was mailed to J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286 and G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Baltimore Country Club of Baltimore City.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

RECEIVED
DEC 05 2005
BALTIMORE COUNTY
BOARD OF APPEALS

December 5, 2005

Chief Clerk, Civil Division
Circuit Court for Baltimore County
County Courts Building
401 Bosley Avenue
Towson, MD 21204

Hand-delivered

Re: Petition for Judicial Review of the Decision
of the County Board of Appeals
In the Matter of Baltimore Country Club of Baltimore City
Case Number: 03-C-05-12378

Dear Sir or Madam:

Please file the enclosed please find the Response to Petition for Judicial Review. If you have any questions or concerns, please contact my office.

Thank you for your consideration.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

PMZ/rmw
Enclosures

cc: J. Carroll Holzer, Esquire
G. Scott Barhight, Esquire
County Board of Appeals

11/30/05

PETITION OF:	*	IN THE
DEBORAH & FRED TERRY; DONNA DOW, M.D.; JOSEPH R.B. TUBMAN; and COURTNEY SPIES, INDIVIDUALS at 508 Fairmount Avenue TOWSON, MARYLAND 21286	*	CIRCUIT COURT FOR BALTIMORE COUNTY
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 47, 400 Washington Ave. Towson, MD 21204	*	Case No. 03-C-05-012378 AA
IN THE MATTER OF THE APPLICATION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY-LEGAL OWNER/ PETITIONER AND DEBORAH TERRY, ET AL., PROTESTANTS/PETITIONERS FOR A SPECIAL HEARING ON PROPERTY LOCATED ON NW/S BOMONT ROAD @ INTERSECTION W/MAYS CHAPEL ROAD	*	
8th ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	
Case Nos.: 04-600-SPH AND 04-508 SPH before The County Board of Appeals	*	

* * * * * * * * * * * * *

CROSS PETITION FOR JUDICIAL REVIEW

Pursuant to Rule 7-202, Petitioners, individuals Deborah Terry, et al, by and through their attorney, J. Carroll Holzer and Holzer & Lee, request Judicial Review of the Opinion of the County Board of Appeals of Baltimore County in Case Nos. 04-600-SPH and 04-508-SPH rendered on October 31, 2005 and attached hereto.

RECEIVED AND FILED
05 NOV 30 PM 3:22
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

RECEIVED
DEC 05 2005
BALTIMORE COUNTY
BOARD OF APPEALS

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX: (410) 825-4923

Petitioners were parties before the County Board of Appeals and fully participated in the proceedings.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November, 2005, a copy of the foregoing Petition for Judicial Review was mailed first class, postage pre-paid to: G. Scott Barhight, Esquire, Whiteford, Taylor and Preston, LLP, 210 W. Pennsylvania Ave., Suite 400, Towson, Maryland 21204; County Board of Appeals, Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204; and People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Petitions 2005\Baltimore Country Club Circuit Court 11-29-05

11/30/05

PETITION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY 11500 Mays Chapel Road Timonium, Maryland 21093	*	IN THE CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	BALTIMORE COUNTY Case No:
IN THE CASE OF BALTIMORE COUNTRY CLUB v. Deborah Terry, Fred Terry, Donna Dow, M.D., Joseph R. B. Tubman, and Courtney Spies, Jr. CASE NOS. 04-600-SPH & 04-508-SPH	*	

* * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Baltimore Country Club of Baltimore City, by and through its undersigned counsel, and pursuant to Maryland Rules 7-201, *et seq.*, requests Judicial Review of the final decision and opinion of the County Board of Appeals for Baltimore County (the "Board") in its case, "In the Matter of Baltimore Country Club", Case Nos. 04-600-SPH and 04-508-SPH, dated October 31, 2005. Baltimore Country Club of Baltimore City was a party to Case Nos. 04-600-SPH and 04-508-SPH. A copy of the Board's Opinion and Order are attached as **Exhibit 1**.

Respectfully submitted,

M Scott Barhight

G. Scott Barhight
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2050

Attorneys for Baltimore Country Club of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of November, 2005, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid to:

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

M Scott Barhight

G. Scott Barhight

349619v2

EXHIBIT 1

IN THE MATTER OF THE APPLICATION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY-LEGAL OWNER /PETITIONER AND DEBORAH TERRY, ET AL –PROTESTANTS /PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON NW/S BOMONT RD @ INTERSECTION W/ MAYS CHAPEL RD 8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 04-600-SPH and Case No. 04-508-SPH

* * * * * * * * *

OPINION

These two cases come before the Baltimore County Board of Appeals as appeals from a Deputy Zoning Commissioner decision of October 22, 2004. The two cases are Case No. 04-600-SPH, filed by Appellants and Legal Owner Baltimore Country Club (hereinafter "BCC"); and Case No. 04-508-SPH, filed by Deborah Terry, et al., Appellants/Protestants, hereinafter referred to collectively as "the Community." G. Scott Barhight, Esquire, represented Baltimore Country Club. The Community was represented by J. Carroll Holzer, Esquire. Both cases were combined and heard together *de novo* before the County Board of Appeals during four days of public hearings held on June 15, June 16, June 21, and August 19, 2005. A public deliberation was held on October 6, 2005.

The Issues

In its case, #04-600-SPH, the Baltimore Country Club raised the following questions:

1. Whether the addition of three tennis courts is permissible intensification of BCC's nonconforming county club use.
2. Whether BCC is permitted to construct a tennis building.
3. Whether the Agreement limits BCC to the construction of nine tennis courts.
4. Whether *res judicata* and collateral estoppel preclude the community from re-litigating the nonconforming use and special exception cases.

WHITEFORD, TAYLOR & PRESTON L.L.P.

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FAX 202 331-0573

115 ORONOCO STREET
ALEXANDRIA, VIRGINIA 22314
TELEPHONE 703 836-5742
FAX 703 836-3558

November 30, 2005

VIA HAND DELIVERY
Ms. Suzanne Mensch
Clerk, Circuit Court of Maryland for
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition For Judicial Review
In the Matter of Baltimore Country Club
Baltimore County Board of Appeals
Case Nos.: 04-600-SPH and 04-508-SPH

Dear Ms. Mensch:

As requested, enclosed please find an original and three (3) copies of the amended Petition for Judicial Review to be filed in the above-referenced case. Please date stamp the extra copy and return it, as well as the receipt, to the courier.

If you have any questions or need further assistance, please do not hesitate to contact me.

Thank you for your assistance with this matter.

Sincerely,

G. Scott Barhight

G. Scott Barhight

Enclosure
GSB:ac
Cc: Baltimore County Board of Appeals
J. Carroll Holzer, Esq.
349642

RECEIVED
DEC 05 2005
BALTIMORE COUNTY
BOARD OF APPEALS

11/29/05

PETITION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY 11500 Mays Chapel Road Timonium, Maryland 21093	*	IN THE CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	BALTIMORE COUNTY Case No:
IN THE CASE OF BALTIMORE COUNTRY CLUB v. Deborah Terry, *et al.* CASE NOS. 04-600-SPH & 04-508-SPH	*	

* * * * * * * * * * *

PETITION FOR JUDICIAL REVIEW

Baltimore Country Club of Baltimore City, by and through its undersigned counsel, and pursuant to Maryland Rules 7-201, *et seq.*, requests Judicial Review of the final decision and opinion of the County Board of Appeals for Baltimore County (the "Board") in its case, "In the Matter of Baltimore Country Club", Case Nos. 04-600-SPH and 04-508-SPH, dated October 31, 2005. Baltimore Country Club of Baltimore City was a party to Case Nos. 04-600-SPH and 04-508-SPH. A copy of the Board's Opinion and Order are attached as **Exhibit 1**.

Respectfully submitted,

G. Scott Barhight

G. Scott Barhight
Whiteford, Taylor & Preston L.L.P.
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515
(410) 832-2050

Attorneys for Baltimore Country Club of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of November, 2005, a copy of the foregoing Notice of Appeal was mailed first class, postage prepaid to:

Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esq.
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
Attorney for Deborah Terry, et al.

G. Scott Barhight

349619

WHITEFORD, TAYLOR & PRESTON L.L.P.

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TELEPHONE 703 836-5742
FAX 703 836-3558

November 29, 2005

VIA HAND DELIVERY
Ms. Suzanne Mensch
Clerk, Circuit Court of Maryland for
Baltimore County
401 Bosley Avenue
Towson, Maryland 21204

Re: Petition For Judicial Review
In the Matter of Baltimore Country Club
Baltimore County Board of Appeals
Case Nos.: 04-600-SPH and 04-508-SPH

Dear Ms. Mensch:

Enclosed please find an original and three (3) copies of a Petition for Judicial Review to be filed in the above-referenced case as well as a check in the amount of $115.00 to cover the filing cost. Please date stamp the extra copy and return it, as well as the receipt, to the courier.

If you have any questions or need further assistance, please do not hesitate to contact me.

Thank you for your assistance with this matter.

Sincerely,

G. Scott Barhight

G. Scott Barhight

Enclosure
GSB:ac
349642

RECEIVED
DEC 0 1 2005
BALTIMORE COUNTY
BOARD OF APPEALS

10/31/05

IN THE MATTER OF THE APPLICATION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY-LEGAL OWNER /PETITIONER AND DEBORAH TERRY, ET AL –PROTESTANTS /PETITIONERS FOR SPECIAL HEARING ON PROPERTY LOCATED ON NW/S BOMONT RD @ INTERSECTION W/ MAYS CHAPEL RD	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No. 04-600-SPH and Case No. 04-508-SPH
8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	

* * * * * * * * *

OPINION

These two cases come before the Baltimore County Board of Appeals as appeals from a Deputy Zoning Commissioner decision of October 22, 2004. The two cases are Case No. 04-600-SPH, filed by Appellants and Legal Owner Baltimore Country Club (hereinafter "BCC"); and Case No. 04-508-SPH, filed by Deborah Terry, et al., Appellants/Protestants, hereinafter referred to collectively as "the Community." G. Scott Barhight, Esquire, represented Baltimore Country Club. The Community was represented by J. Carroll Holzer, Esquire. Both cases were combined and heard together *de novo* before the County Board of Appeals during four days of public hearings held on June 15, June 16, June 21, and August 19, 2005. A public deliberation was held on October 6, 2005.

The Issues

In its case, #04-600-SPH, the Baltimore Country Club raised the following questions:

1. Whether the addition of three tennis courts is permissible intensification of BCC's nonconforming county club use.
2. Whether BCC is permitted to construct a tennis building.
3. Whether the Agreement limits BCC to the construction of nine tennis courts.
4. Whether *res judicata* and collateral estoppel preclude the community from re-litigating the nonconforming use and special exception cases.

5. Whether BCC's request to modify the Plans is a breach of the Agreement.
6. Assuming *arguendo* that BCC breached the agreement, whether the Orders in Cases 93-37-SPH and 93-388-X are null and void and whether BCC loses its nonconforming use and special exception status.
7. Whether the proposed tennis improvements meet applicable environmental and development process standards.
8. Whether a Special Hearing is necessary to approve refinements to the Nonconforming Use Area and/or the Special Exception Area.

The Community, in Case No. 04-508-SPH, objects to the proposed increase in tennis courts and the building of a tennis facility. In their Petition for Special Hearing, the Community raised the following questions (Issue #11 was withdrawn during the present hearings):

1. Does the Deputy Zoning Commissioner's decision in Case No. 97-384-SPH require BCC to seek a Special hearing to determine whether its proposal to construct twelve tennis courts in lieu of nine is permissible?
2. Is the BCC proposed Plan for twelve tennis courts, a tennis building, and parking in violation of the Agreement between the parties of June 14, 1993?
3. Does the BCC breach of the 1993 Agreement void the prior Special Exception so that the BCC must reapply for the Special Exception?
4. Does the proposal of BCC for twelve tennis courts require review by the County Department of Permits and Development Management per *Baltimore County Code* 26-168(p)(i)?
5. What is the definition of "development" pursuant to the BCZR and does the construction of twelve tennis courts and a building meet that definition?

6. Does the breach of the Parties' 1993 Agreement reopen the Petitioners' issue in Case No. 98-388?
7. Has the BCC exceeded the expansion permitted a nonconforming use by the BCZR Section 104 and 104.3?
8. If the BCC has exceeded the expansion permitted by 104.3, has it lost its nonconforming status?
9. Even if the BCC now has the legal nonconforming use, will the construction of twelve tennis courts and an additional building be an illegal expansion of the nonconforming use?
10. Environmental Issues A through E (listed on the original Petition for Special Hearing).

Testimony and Evidence

The facts, history, and circumstances delineating how the parties arrived here are contained in a number of cases over the years, and are not in dispute. What is in dispute is what the Agreement and Order in Case No. 93-388-X meant (see Community Exhibit 5). While the history and testimony in this current case did provide background and the witnesses' understanding of past occurrences, the most compelling pieces of evidence were the Plan to Accompany the Special Hearing Petition (Community Exhibit 2) and Zoning Commissioner Order in Case No. 93-37-SPH (granting the nonconforming use to BCC; Community Exhibit 3); the Plan to Accompany the Special Exception Petition (Community Exhibit 4) and the Zoning Commissioner Order and Agreement in Case No. 93-388-X (Community Exhibits 5A – C).

Brief History

Baltimore Country Club consists of approximately 400 acres at 11500 Mays Chapel Road, referred to as the Five Farms Country Club, to distinguish this property from the portion of the BCC in Baltimore City. The property contained two 18-hole golf courses, a clubhouse,

swimming pool, and related buildings. In 1992, BCC petitioned for a Special Hearing to declare the use at Five Farms to be nonconforming. At that time, the zoning was RC-5, which did not allow country clubs in the zone by right.

The Zoning Commissioner, in his order dated March 5, 1993, found that the property had been in continual use as a country club since about 1924, prior to the existence of zoning regulations in the County, and therefore granted it nonconforming status (see Zoning Commissioner Order Case No. 93-37-SPH, Community Exhibit 3). While granting it such status, however, the Zoning Commissioner also allowed the BCC to change or modify the use by installing nine tennis courts—a use that had not been previously part of the country club at Five Farms. (The tennis facilities then, as now, were at the country club's site in Baltimore City.) The Zoning Commissioner reasoned, rightly or wrongly, that as long as the new use reflected "the nature and purpose of a country club use," it was a permissible intensification under *McKemy v. Baltimore County*, 39 Md.App 256, 385 A2d 96 (1978).

Although granting nonconforming use status to the roughly 400 acres of BCC that had existed prior to 1963 (when the latest zoning of the area took effect), the Zoning Commissioner found that the nonconforming use did not extend to parcels of land acquired by the BCC after 1963. For those parcels, BCC had to petition for a Special Exception. Following the Zoning Commissioner's Order, Protestants (the Community in the current case) filed a timely appeal with the Baltimore County Board of Appeals. Protestants live in a community on Bomont Road, a single-lane road with thirteen houses, south and adjacent to the country club. They argue they are directly affected by the BCC's plans for the nine tennis courts, since three of those courts would be built on property adjacent to their homes.

BCC meanwhile filed a Site Plan and Petition for Special Exception in Case No. 93-388-X for the more recently acquired parcels, referred to as Parcel A and Parcel B (see Community

Exhibit 4). The Community entered this case as Protestants, concerned particularly with the proposed use of Parcel A, also known as the Boyce parcel, located at the corner of Mays Chapel Road and Bomont Road. This parcel of about 2.7 acres had been a residential property. BCC intended to build three tennis courts on this property, and the Zoning Commissioner in his opinion noted that the Community was concerned with "among other things, stormwater run-off, the visual and sound impact of the proposed improvements to the Boyce Parcel, and the future use of the Boyce Parcel."

Prior to the hearing before the Zoning Commissioner, however, BCC and the Community reached an agreement that was made part of the Zoning Commissioner's Order (see Community Exhibit 5A-C). In exchange for a number of obligations on the part of BCC, the Community agreed not to oppose the granting of a Petition for Special Exception and to dismiss with prejudice their appeal of Case No. 93-37-SPH before the Board of Appeals of Baltimore County.

Findings of Fact and Conclusion of Law

Many of the questions posed by both sides hinge on the meaning of the Agreement entered into by both parties in Case No. 93-388-X (hereinafter referred to as "the Agreement") and on the question of whether or not the proposed changes to BCC's site plan, under its current Petition for Special Hearing (see Community Exhibit 1) constitute a permissible intensification or an impermissible expansion of its nonconforming use status.

What is or is not permitted by the Agreement?

Under the current site plan, BCC plans to increase the number of tennis courts from nine to twelve and build a tennis building/facility on the nonconforming use portion of its property. Protestants argue that neither is permitted under the Agreement.

While the Board finds that the Agreement is valid and enforceable by the Board, a plain reading of the text of the Agreement shows it is limited to activity on the Boyce parcel only, and, as such, it does not limit the BCC to nine tennis courts or prohibit the tennis facility. The Agreement contains no language that would indicate Baltimore Country Club was prohibited from requesting any changes on the nonconforming use portion of its property. The only mention of nine tennis courts in the Agreement is contained in the "whereas" clause, but this does not limit BCC to nine courts. The Agreement addresses the Community's concerns noted by the Zoning Commissioner in the Special Exception Petition Hearing—such as stormwater runoff management, sound barriers, distance from the courts to the nearest residence, and hours of operation of the "three tennis courts on the Boyce parcel." As evidenced by even that last point—hours of operation—all the obligations were directed to the Boyce parcel, not to the operation of the BCC on its nonconforming use property.

The Agreement required Baltimore Country Club to provide the Community with "any stormwater plans," for the parcel, which the Community argued it did not do before submitting to Baltimore County a stormwater management study (BCC Exhibit 2) and Drainage Area map (Community Exhibit 8), in November 2003. BCC argues in their Closing Memo that these were not "stormwater plans" and therefore not covered by the Agreement. BCC did in fact provide the Community with additional stormwater improvements in December 2003, (BCC Exhibits 13A and J and BCC Exhibit 3C) and site plans detailing the stormwater management proposal 9BCC Exhibits 3A-C, BCC Exhibits 13A-R).

To answer Community Issues 2, 3, and 6, and BCC's Issues 5 and 6, there has been no breach of the Agreement that would cause a reopening or reconsideration of the nonconforming use status on the bulk of BCC property or the Special Exception status of the Boyce property.

Since the Agreement does not control activity on the nonconforming use parcel, the BCC's request to modify the original site plan also is not a breach of the Agreement.

Nonconforming Use Issues

Community Issue 1 and BCC Issue 8 ask whether a Special Hearing is required to approve refinements/changes/modifications to the original site plan by which nonconforming use status was granted. The Board finds that BCC is required to apply for a Special Hearing in order to meet the standards of Sections 104 and 104.3 of the *Baltimore County Zoning Regulations* (B.C.Z.R.). BCC's position that it does not have to do so, because of the ruling in Case no 93-37-SPH by Zoning Commissioner Schmidt, in our view, is incorrect. It is clear to the Board that that ruling decided and granted BCC's Five Farms area nonconforming use status. It is illogical to think this decision gave BCC "carte blanche" to increase or expand its activities on the nonconforming use area in any manner it desires as long as it describes the activity as "country club," without compliance with the BCZR.

The Maryland Court of Appeals in *Prince George's County v. E.L. Gardner* 293 Md.259 (1992) notes that "one of the fundamental problems of zoning is the inability to eliminate incompatible nonconforming land uses." (p. 267) Citing a number of cases, the Court points out that the conflict is "ordinarily resolved, under local ordinances, by permitting existing uses to continue as nonconforming uses subject to various limitations upon the right to change, expand, alter, repair, restore, or recommence after abandonment. Moreover, this Court has further recognized that the purpose of such restrictions is to achieve the ultimate elimination of nonconforming uses" (P. 268).

The relevant local ordinance in Baltimore County is BCZR Section 104.1:

> A nonconforming use (as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that upon any change from such nonconforming use to any other use whatsoever, or any abandonment or discontinuance of such nonconforming use for a period of one

> year or more, the right to continue or resume such nonconforming use shall terminate.

BCZR Section 104.3 explains the limitations on the right to change or modify a nonconforming use:

> No nonconforming building or structure and *no nonconforming use* of a building, structure *or parcel of land shall* hereafter be extended more than 25% of the ground floor area of the building so used (italics added).

In its current Petition for Special Hearing, BCC seeks approval to make a number of changes to the Site Plan to Accompany Petition for Special Hearing originally approved in Case No. 93-37-SPH (Community Exhibit 2). Specifically, BCC seeks approval to construct a total of twelve tennis courts—nine on the nonconforming use property and three (per the 1993 Agreement) on the Special Exception, or Boyce, property. BCC also seeks approval to construct a tennis building—something that was never shown on any earlier plan. In addition, BCC plans to convert a parking area into a grassy lawn between the three tennis courts on the Boyce property and the other nine courts. (See Community Exhibit 1, the Site Plan to Accompany Special Hearing, dated 6/18/04; and BCC Exhibit 6) As discussed by a number of BCC witnesses, the club intends to move its entire tennis facility from the Baltimore City location to the Five Farms location, shutting down the Baltimore City facility.

In order to determine if the Baltimore County Club's proposals are an allowed intensification of the nonconforming use or an impermissible extension, the proposal must meet the standard as stated in *McKemy v. Baltimore County*, 39 Md. App. 257 (1978). In *McKemy*, the Court established a four-part test:

1. To what extent does the current use of the property reflect the nature and purpose of the original nonconforming use;

2. Is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature and kind;
3. Does the current use have a substantially different effect upon the neighborhood;
4. Is the current use a "drastic enlargement" of the original nonconforming use.

Because nine tennis courts were permitted to be added to the county club's recreational activities under Commissioner Schmidt's opinion in 1993, BCC argues that the addition of three more courts is a "natural expansion" of what was already granted. But the issue here is not just the addition of three courts, but an entire tennis complex that was not in the original Site Plan to Accompany the Petition for Special Hearing in 1992.

This Board cannot at this juncture overturn or change the 1993 decision in Case # 93-37-SPH allowing nine courts—even though they were never part of the original use of the club. In deciding whether the proposed changes meet the *McKemy* criteria, we have to compare them with what was granted to the BCC when it was giving a nonconforming use status. We also have to consider that, although the Agreement with the Community is restricted to the Boyce parcel, the Community did drop its appeal to the Board of Appeals of the nonconforming use status. In doing so, based on testimony before this Board, it is clear the Community thought the package they were accepting included the Site Plan to Accompany the Petition for Special Hearing in Case #93-37-SPH.

That Site Plan (Community Exhibit 2) shows nine tennis courts. It shows a small box marked with an "X" (highlighted on the exhibit in blue). BCC argues that this box is the proposed new tennis building (although on the current petition's Site Plan, it has been moved and is much larger). It is noteworthy, however, that every other building on the 1992 plan is labeled—including comfort stations, rain shelters, staff residence, etc. This "building" is not

noted anywhere on the plan. The Zoning Commissioner's Order granting nonconforming use to the property in Case No. 93-37-SPH does not make mention of this "building" or even of the plans for moving the entire tennis facility to the Five Farms location (Community Exhibit 3). It too only mentions the nine tennis courts.

BCC argues, and cites Schmidt's opinion justifying the nine tennis courts, that since tennis is a typical use of a country club, that adding it to the Five Farms area is only an intensification. Following this logic, however, BCC should also be able to add skeet shooting, paddle tennis, horse back riding and any other "typical use" of a country club, whether or not the use existed at the time the nonconforming use was granted. This Board disagrees with this logic.

We find that the proposed use fails on three parts of the *McKemy* criteria. We find that the proposed use is different in character nature and kind to the use of the club at the time nonconforming use status was granted. Tennis courts were then granted, not a competitive twelve-court tennis facility. The proposed use would have a substantially different effect upon the Community in that there would be more and different activities at this location. The proposed twelve tennis courts and tennis building would also certainly be a "drastic enlargement" of the original nonconforming use since neither was shown to exist prior to the nonconforming status.

ORDER

IT IS THEREFORE this 31st day of October, 2005, by the County Board of Appeals of Baltimore County

ORDERED that the issues raised within the two Petitions for Special Hearing before this Board have been resolved as follows:

1. That there was no breach in the 1993 Agreement between BCC and the Community settling the Special Exception Case No. 93-388-X. The Agreement remains valid and binding on both parties.

2. That the 1993 Agreement contains obligations by both parties relating to the Special Exception (Boyce) Parcel only and not to the nonconforming use portion of the BCC property.

3. That BCC does not lose either its nonconforming use status or its special exception status simply by petitioning for changes in its site plan.

4. That BCC does need to petition for Special Hearing when it wishes to make changes to the Site Plan approved for the nonconforming use part of Five Farms and for the Special Exception (Boyce) parcel.

5. That the proposed changes to the nonconforming use part of Five Farms—namely the increase in number of tennis courts and construction of a tennis building—are impermissible expansions of the nonconforming use granted in Case No. 93-37-SPH and are thereby **DENIED**.

5. Other issues are made moot or are outside the jurisdiction of the Board of Appeals.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Michael O. Ramsey, Panel Chairman

Margaret Brassil, Ph.D.

Edward W. Crizer, Jr.

County Board of Appeals of Baltimore County

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RE: *In the Matter of: Baltimore Country Club of Baltimore City – Legal Owner /Petitioner;* Case No. 04-600-SPH and *Deborah Terry, et al – Protestants /Appellants* Case No. 04-508-SPH

Dear Counsel:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen C. Bianco
Administrator

Enclosure

c: Dino C. La Fiandra, Esquire
Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher
Deborah Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.
C. Lawrence Wiskeman
Marvin Tenberg, Vice President /Falls Rd Community Assn.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

9/20/05

IN THE MATTER OF:		
BALTIMORE COUNTRY CLUB	*	BEFORE THE
Legal Owner		
11500 Mays Chapel Road	*	COUNTY BOARD OF APPEALS
8th Election District, 2nd Councilmanic District		
v.	*	OF BALTIMORE COUNTY
DEBORAH TERRY, *et. al.*		
Protestants/Petitions	*	Case Nos.: 04-508-SPH &
(Case # 04-508-SPH)		and
	*	04-600-SPH
And		
	*	
IN THE MATTER OF:		
BALTIMORE COUNTRY CLUB	*	
11500 Mays Chapel Road		
8th Election District, 2nd Councilmanic District		
Legal Owner/Petitioner	*	
(Case # 04-600-SPH)		

* * * * *

BALTIMORE COUNTRY CLUB'S CLOSING MEMORANDUM

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IN THE MATTER OF: BALTIMORE COUNTRY CLUB Legal Owner 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District v. DEBORAH TERRY, *et. al.* Protestants/Petitions (Case # 04-508-SPH)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case Nos.: 04-508-SPH & and 04-600-SPH
And IN THE MATTER OF: BALTIMORE COUNTRY CLUB 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District Legal Owner/Petitioner (Case # 04-600-SPH)	*	

* * * * *

BALTIMORE COUNTRY CLUB'S CLOSING MEMORANDUM

Baltimore Country Club of Baltimore City ("BCC"), by its undersigned counsel, submits this memorandum in lieu of closing arguments.

INTRODUCTION

The facts and issues in these cases revolve around the dispute over BCC's recent proposal to increase the number of tennis courts on its property from nine to twelve, and to remove parking spaces and associated lighting and paved access. BCC seeks to amend its approved plans for its Nonconforming Use Area and Special Exception Area (the "Plans") to permit the relocation of tennis activities from its Roland Park campus in Baltimore City to its Five Farms campus in Baltimore County. The three additional tennis courts would be located only on BCC's Nonconforming Use Area and within the previously approved "Outdoor Recreation Area" as noted on the Plan to Accompany Special Hearing Petition (Comm. Ex. 2).

In an attempt to overextend their permissible relief, Deborah and Fred Terry, Donna Dow, M.D., Joseph R. B. Tubman and Courtney Spies, Jr. (collectively, the "Community") requests that the Board deprive BCC of its nonconforming use and special exception status. The Community alleges that BCC violated an agreement it entered into with the Community in June, 1993 (the "Agreement") (Comm. Ex. 5B) whereby various issues were resolved ultimately settling the Community's issues with respect to BCC's Nonconforming Use (Case No. 93-37-SPH) and Special Exception (Case 93-388-X).

The Community has unnecessarily diverted the Board's attention to irrelevant facts and legal issues, which, in the end, are of no moment in the case at hand. Not only are the Community's attempts to retry certain issues and obtain unrecoverable relief not permitted by law, they have caused unnecessary delay in getting to the real point in the case— whether or not BCC may refine the Plans for tennis. BCC merely seeks to amend the Plans to delete the entrance and parking off Mays Chapel Road (along with the added traffic and lighting associated with such entrance and parking); relocate its proposed tennis building; and increase the number of tennis courts from nine to twelve. Together, these changes ultimately benefit the Community. Pared to its essence, the present case simply requires the approval of three minor refinements to Plans that have already been approved by the County and the Community.

The Agreement is binding on both parties. Despite the Community's allegations, BCC is not attempting to renege on the Agreement. Rather, BCC fully intends to uphold its end of the bargain. The relief requested by BCC does not breach or void the Agreement in any way. BCC merely requests that the Board determine whether it is entitled to make the proposed refinements to the approved Plans.

PROCEDURAL BACKGROUND

BCC acquired the majority of the property located at 11500 Mays Chapel Road (the "Property") from May 5, 1924 to May 26, 1926. At that time, there were no zoning regulations in Baltimore County. Since that time, BCC has used the Property as a country club and was granted nonconforming use status in Case 93-37-SPH. BCC acquired Parcels A and B (the "Special Exception Area") after the critical date for nonconforming status and was granted special exception status for that portion of the Property in Case 93-388-X.

A Petition for Special Hearing was filed by the Community in Case 04-508-SPH. Subsequently, BCC filed a Petition for Special Hearing in Case 04-600-SPH. The cases were combined and public hearings were held before the Deputy Zoning Commissioner. After full hearings on the merits, the Deputy Zoning Commissioner issued his Findings of Fact and Conclusions of Law on October 22, 2004, granting in part and denying in part the relief sought in Protestants' Case 04-508-SPH and granting with conditions the relief sought in BCC's Case 04-600-SPH.

On November 17, 2004, BCC filed a timely Notice of Appeal of: 1) specific portions of the Deputy Zoning Commissioner's Ruling on the Order on Preliminary Motions; 2) specific portions of the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law; and 3) specific portions of the Deputy Zoning Commissioner's "Summary" (Order) within his Findings of Fact and Conclusions of Law. The Community also filed a timely Notice of Appeal of the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law on November 19, 2004. This County Board of

Appeals of Baltimore County ("the Board") held its hearings for the Appeal on June 15, 16, 21, 2005 and August 19, 2005.

The parties agree on the prior zoning cases, approved site plans and Agreement that are relevant to this appeal. Below is a summary of the relevant cases preceding those currently before the Board.

Case 93-37-SPH

The majority of BCC's property was granted nonconforming use status in Case 93-37-SPH. Comm. Ex. 3[1]; Comm. Ex. 2. Specifically, Case 93-37-SPH, confirmed a nonconforming country club use for what has been identified as BCC's Nonconforming Use Area.

Lawrence E. Schmidt, then the Zoning Commissioner, found that a country club's use of land may be nonconforming. Comm. Ex. 3, p. 8. Zoning Commissioner Schmidt held that BCC's use was in existence at the time zoning began in Baltimore County and that BCC's use has continued in the same manner for the past 48 years. He further held that the land which encompassed the Property as it existed in 1963 is nonconforming. The Nonconforming Use Area includes approximately 400 acres and currently consists of a clubhouse, pool and two golf courses.

Zoning Commissioner Schmidt clearly resolved the question of what standard applies to the extension or enlargement of a nonconforming country club use. Mr. Schmidt stressed that "it is the land and not any structure which forms the basis of the country club use." *Id.* at p. 9. Because the issue in the case was whether using the land as a country club could be nonconforming, he deemed the square footage of the

[1] All references to Exhibits are those submitted into evidence at the hearings below and to the Board.

clubhouse irrelevant and held that such a building was merely incidental to BCC's nonconforming country club use. *Id.* (stating that "[c]learly, the Baltimore Country Club would not have purchased this tract only to build a single building on approximately 400 acres.").

The Zoning Commissioner utilized the four prong test set forth in *McKemy v. Baltimore County*, 39 Md. 256 (1978) to determine whether BCC's nonconforming use could be intensified. He held that the modifications then proposed, which included the remodeling and renovation of several ancillary buildings, the reconstruction of the clubhouse, the relocation of the paved parking area, the renovation of the pools, the installation of tennis courts, and the construction of a tennis building were all permissible intensifications under *McKemy* because such modifications did nothing more than reflect the nature and purpose of a country club use. *Id.* at p. 12. Zoning Commissioner Schmidt further noted that the modifications were "entirely consistent with the country club and are not different in either character, nature or kind. They are clearly all within the umbrella of those uses which constitute a country club operation. Additionally, there will be no difference in impact on the neighborhood caused by these modifications." *Id.* at p. 13.

The approved Plan to Accompany Special Hearing Petition (Comm. Ex. 2) contains four "site use areas" including the Golf, Social, Outdoor Recreation and Residential Areas. These site use areas reflect the traditional uses on the Property. The approved Plan to Accompany Special Hearing Petition indicates that these four site use areas are "not finite" and "may be modified if an activity is in accordance with the nature and purpose of [BCC]." Comm. Ex. 2. In addition, the approved plan provides that

"buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas" as long as such improvements are within the self-imposed 25 percent limitation on expansion for each site use area. Comm. Ex. 2.

The Community appealed the decision in Case 93-37-SPH, and while the appeal was pending, the parties entered into the Agreement to resolve their differences. Comm. Exs. 5B & 5C. Accordingly, the Community dismissed its appeal.

Case 93-388-X

A portion of the Property was not granted nonconforming use status. As a result, another zoning case was filed and special exception relief was granted to BCC. Specifically, two small parcels, one of which ("Parcel A", formerly known as the Boyce Parcel) the Community has brought to issue in its instant Petition, were granted special exception relief for a country club in Case 93-388-X. Comm. Ex. 5A; Comm. Ex. 4. The site plan approved in Case 93-388-X shows three tennis courts and parking on Parcel A. As a result of the Agreement, the Community appeared at the special exception hearing in support of BCC.

Case 97-384-SPH

As a result of a dispute which arose in 1997, a subsequent Order was entered in Case 97-384-SPH. Comm. Ex. 7. Case 97-384-SPH involved a Petition for Special Hearing filed by the Community. The Deputy Zoning Commissioner's decision in the 1997 case confirmed BCC's nonconforming use status for the Non-Conforming Use Area and confirmed BCC's special exception status for the remainder of the Property, including Parcel A.

In Case 97-384-SPH, the Community sought a determination of seven questions, all of which it poses to the Board in its present petition. The seven questions the Community asked (and had answered) in Case 97-384-SPH are: 1) whether BCC's special exception expired; 2) whether BCC's proposed tennis improvements violate the order in Case 93-388-X; 3) whether BCC violated the Agreement and the Order issued in Case 93-37-SPH; 4) whether BCC's proposed tennis improvements violate the Order in 93-37-SPH; 5) whether BCC violated the Agreement and the Order of Dismissal in CBA Case 93-37-SPH; 6) whether BCC violated the Agreement, the Order in Case 93-388-X, and the Order of Dismissal of the CBA as to environmental compliance with storm water runoff; and 7) whether BCC complied with all Baltimore County sediment control and water quality requirements in regard to the implementation of the nonconforming use granted in Case 93-37-SPH. Comm. Ex. 7, pp. 3-13.

Timothy Kotroco, then the Deputy Zoning Commissioner found that BCC's special exception had not expired. Specifically, he held that BCC had used the special exception within the two-year prescribed period and that BCC had vested with respect to the construction of the tennis improvements. Comm. Ex. 7, pp. 5-6. Regarding questions 2 and 4, Mr. Kotroco held that BCC is not in violation of the Order issued in Case 93-388-X and is not in conflict with the Baltimore County Zoning Regulations (BCZR). *Id.* at p. 8 & 11. With respect to questions 3 and 5, Mr. Kotroco held that BCC committed a "technical violation" of the Agreement by failing to submit storm water management plans to the Community; however it was "immediately remedied" once it was brought to BCC's attention and "was not in any way prejudicial" to the Community. Accordingly, Mr. Kotroco found that BCC's adhered to the spirit and intent of the Order in Case 93-

388-X. *Id.* at p. 11. Mr. Kotroco dismissed questions 6 and 7 because alleged violations of environmental regulations are more appropriately brought before federal, state and county agencies. *Id.* at p. 12.

Case 04-508-SPH

In their present petition, the Community poses the following questions: 1) whether a special hearing is required to determine whether BCC is permitted to propose the construction of 12 tennis courts; 2) whether BCC's proposed tennis improvements violate the Agreement and whether BCC failed to provide storm water management plans to the Community prior to their submission to Baltimore County; 3) whether a breach of the Agreement void BCC's special exception; 4) whether BCC's proposed tennis improvements require review by PADM as "development"; 5) whether the proposed tennis improvements meet the BCZR definition of "development"; 6) whether a breach of the Agreement reopens the issues raised in Case 93-388-X; 7) whether BCC has exceeded the expansion permitted by BCZR §104; 8) whether BCC has lost its nonconforming use status if it has exceeded the expansion permitted by BCZR §104; 9) whether the construction of 3 tennis courts and 30 parking spaces will be an illegal expansion of BCC's nonconforming use; 10) whether the proposed tennis improvements meet certain environmental standards; and 11) whether BCC's special exception expired.

Case 04-600-SPH

In Case 04-600-SPH, BCC requests approval of certain refinements to the previously approved tennis improvements for the Nonconforming Use Area and the Special Exception Area. Comm. Ex. 1. Specifically, BCC proposes to construct three additional tennis courts, relocate the tennis building, eliminate parking previously

proposed in the area between the tennis courts and the Community's residences (including all parking on Parcel A), and eliminate the paved entrance to the tennis area on Mays Chapel Road. Nine out of the total twelve tennis courts and the tennis building will be located completely within the Nonconforming Use Area. Three of the tennis courts will be located partially on the Nonconforming Use Area and partially on the adjacent Special Exception Area/Parcel A. *Id.* The existing approvals include a total of nine tennis courts, a tennis building and parking area. The proposed refinements merely include the addition of three tennis courts, the relocation of the tennis building and the elimination of the entrance and parking area.

SUMMARY OF QUESTIONS PRESENTED

I. Whether the addition of three tennis courts is a permissible intensification of BCC's nonconforming country club use

II. Whether BCC is Permitted to Construct a Tennis Building

III. Whether the Agreement limits BCC to the construction of nine tennis courts

IV. Whether res judicata and collateral estoppel preclude the community from re – litigating the nonconforming use and special exception cases

V. Whether BCC's request to modify the Plans is a breach of the Agreement

VI. Assuming arguendo that BCC breached the Agreement, whether the Orders in Cases 93-37-SPH and 93-388-X are null and void and whether BCC loses its nonconforming use and special exception status

VII. Whether the proposed tennis improvements meet applicable environmental and development process standards

VIII. Whether a special hearing is necessary to approve refinements to the Nonconforming Use Area and/or the Special Exception Area

I. The Addition of Three Tennis Courts is a Permissible Intensification of BCC's Nonconforming Country Club Use

The Community alleges that BCC has expanded its nonconforming use in violation of BCZR Section 104.3 and that it has therefore lost its nonconforming use status. The Property was granted nonconforming use status as a country club in Case 93-37-SPH. Increasing the number of tennis courts from nine two twelve does not impermissibly expand BCC's nonconforming country club use. Rather, the addition of tennis courts is a logical addition to any country club.

The language in the flexibility note on the Plan to Accompany Special Hearing (Comm. Ex. 2), approved in Case 93-37-SPH, provides that the use areas "may be modified if an activity is in accordance with the nature and purpose of [BCC]." Additionally, the flexibility note provides that improvements "may be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas." The "Outdoor Recreation Area," as shown on Comm. Ex. 2, is consistent with this requirement. As long as the tennis improvements are located within the "Outdoor Recreation Area," they should be permitted pursuant to the original Nonconforming Use Order. Comm. Ex. 3.

The four site use areas listed on the Plan to Accompany Special Hearing Petition are golf, outdoor recreation social and residential. The activities listed in the Outdoor Recreation Area include badminton, croquet, field sports, swimming, volleyball, and tennis. Comm. Ex. 2. The plan does not limit BCC to a certain number of tennis courts.

Regardless, the proposed tennis improvements are an intensification of BCC's nonconforming country club use — not an extension requiring application of BCZR

Section 104.3. In his Order for Case 93-37-SPH, Zoning Commissioner Schmidt explained at length his rationale for granting the nonconforming use and held that the improvements including the addition of tennis courts are uses "permitted as ancillary to the overall use of" the Property. Comm. Ex. 3, pp. 10-12. Deputy Zoning Commissioner Murphy agrees that the 93-37-SPH Order is binding. Ex. A, p. 13.

Mr. Murphy found that increasing the number of tennis courts on the Nonconforming Use Area from nine to twelve constitutes an extension of the nonconforming use subjecting the additional three courts to the 25 percent rule of BCZR Section 104.3. Mr. Murphy's decision is wrong for two reasons: 1) increasing the number of tennis courts on the Nonconforming Use Area from nine to twelve is a permissible intensification — not an expansion; and 2) BCZR Section 104.3 does not apply to the addition of three tennis courts because there is no expansion of a building.

A. The Proposed Changes Are Consistent With Maryland Law on Intensification of a Nonconforming Use

An increase in the volume of an existing activity is usually referred to as a permissible "intensification" of a nonconforming use, whereas a change from one nonconforming use to a new and different one constitutes an "extension" of the use. *Phillips v. Zoning Commissioner of Howard County*, 225 Md. 102, 110 (1961); *Feldstein v. LaVale Zoning Board*, 246 Md. 204, 211 (1967); *Zent*, 86 Md.App. at 754, n.5 (quoting *Prince George's Co. v. E.L. Gardiner, Inc.*, 47 Md.App. 471 (1981), *rev'd on other grounds*, 293 Md. 259 (1982)). In other words, the more frequent present use of a property for the same or a similar use than that for which it had been used less frequently is deemed a lawful intensification of a nonconforming use. *Feldstein*, 246 Md. at 211.

Increasing the amount of tennis courts at BCC from nine courts to twelve courts is clearly an intensification or a "more frequent" use. *McKemy v. Baltimore County*, 39 Md.App. 257, 269-70 (1978) (listing four factors used to determine whether an activity is within the scope of a nonconforming use[2]). Applying the *McKemy* factors, BCC's expert, Michael Fisher testified that the proposed refinements to the Plans are consistent with the nature and purpose of BCC. T.4[3]., pp. 32-33. The proposed changes include increasing the tennis courts from nine to twelve, removing the parking adjacent to the tennis courts, removing access from Mays Chapel Road into the tennis court area, and relocating the tennis building to the west. *Id.* These changes are entirely consistent with BCC's approved nonconforming use plan because they provide tennis courts and the tennis building, they are all within the Outdoor Recreation Area, and the three courts are still maintained on Parcel A. *Id.* at pp. 33-34. These changes clearly will not have an adverse impact on the community because the removal of parking and access from Mays Chapel Road also eliminates related light, traffic, exhaust, noise, etc. *Id.* at pp. 34-45.

The Community members testified in detail about their concerns with the tennis improvements. In short, Dr. Dow is concerned about stormwater management, noise and lighting. T.1, pp. 18-98; T.2, pp. 21-182. Likewise, Mr. Spies is concerned about stormwater management, noise and lighting. T.2, pp. 183-93. Mr. Tubman raised concerns over noise, security, lighting and air pollution. T.2, pp. 194-206. Ms. Terry is concerned about stormwater management and changes to the "forest environment." T.2,

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[2] The four factors applied in *McKemy* are: 1) to what extent does the current use of the property reflect the nature and purpose of the original nonconforming use; 2) is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature and kind; 3) does the current use have a substantially different effect upon the neighborhood; and 4) is the current use a "drastic enlargement or extension" of the original nonconforming use. *McKemy*, 39 Md.App. at 269-70.

[3] There were four days of testimony at the hearing before the Board. The transcripts will be referenced as T.1 through T.4.

pp. 207-13. Mr. Toland is concerned about stormwater management, the location of the tennis courts, lighting and noise. T.3, pp. 5-22. However, according to Mr. Toland, tennis courts are certainly a "logical portion of a country club." T.3, p. 10. Mr. Bowers is concerned about stormwater management, forest buffer and erosion, noise and lighting. T.3, pp. 23-61. Considering the Community is mainly concerned about stormwater management, lighting and noise, the revised plan better suits their concerns because it reduces the overall impervious area, lighting and noise by removing the parking area and access from Mays Chapel Road.

Muse v. Zoning Hearing Board of Ben Avon Heights Borough, 415 A.2d 1255 (Pa. Commw. 1980) is directly on point to the present facts. There, the Commonwealth Court of Pennsylvania ruled that a country club's construction of tennis courts is a "natural expansion" of its country club activity. *Muse*, 415 A.2d at 1257. Unlike the present case however, *Muse* dealt with a country club proposing the addition of tennis courts to its existing golf, swimming, paddle tennis and skeet shooting facilities. Here, the issue is simply whether increasing the number of tennis courts by three constitutes intensification or an impermissible extension of BCC's nonconforming use. If a country club's addition of tennis courts is deemed an intensification rather than an unlawful extension of a nonconforming use, then merely increasing a club's number of tennis courts from nine to twelve clearly constitutes an intensification of the club's tennis activities.

In *Feldstein, supra*, the Court of Appeals held that a junkyard's increase in quantity and height of its stored scrap metal was an intensification and not an extension of a nonconforming use. *Feldstein*, 246 Md. at 211. There, piles of junk increased in

height from eight feet to approximately twenty-five feet. Rejecting the argument that the junkyard's increase in the lawful preexisting use of the property constituted an impermissible extension, the Court affirmed the trial court's denial of the zoning board's request for injunctive relief to prohibit the junkyard from extending beyond the area occupied at the time the local ordinance was adopted. *Id.* Applying Deputy Zoning Commissioner Murphy's rationale to *Feldstein*, the height of the junk pile would have been limited to 25 percent beyond eight feet, or ten feet. The *Feldstein* Court rejected this result. Mr. Murphy's rationale for limiting BCC's tennis courts to ten is not in accordance with Maryland precedent.

In *Nyburg v. Solmson*, 205 Md. 150 (1954), the Court of Appeals held that a garage owner's expansion of his business by using open space for storage of new cars was an intensification of a long continued nonconforming use rather than an impermissible extension. *Nyburg*, 205 Md. at 161. Likewise, in *Helfrich v. Mongelli*, 248 Md. 498 (1968), the Court of Appeals held that an inn's enclosure of its porch "amounts to no more than a permissible intensification of an existing nonconforming use and hardly amounts to a change that would affect the character of the neighborhood." *Helfrich*, 248 Md. at 504. More recently, the Court of Special Appeals held that a milk trucking and distribution business intensified its nonconforming use when it began storing inoperable trucks on its property. *Zent*, 86 Md.App. at 748, 753-57 (equating the doctrine of natural expansion to Maryland's theory of intensification).

On behalf of the Community, Mr. Dillon testified that the tennis courts at BCC are a new use representing an impermissible extension of BCC's nonconforming country club use. T.3, p. 106. Mr. Dillon cites *Prince George's County v. E.L. Gardner, Inc.*, 47

Md.App. 471 (1981), *rev'd on other grounds*, 239 Md. 259 (1982) to support his position. *Gardner* is wholly inapposite to the present case. *Gardner* dealt with a landowner requesting a special exception to build a sand and gravel processing facility on a nonconforming mining property. Although *Gardner* ultimately held that the nonconforming use status of the property was irrelevant (as it is here), it briefly discusses two Massachusetts cases holding that the addition of a blacktop facility and the addition of a stone crushing process is an unlawful extension of a nonconforming quarry use. *Gardner*, 47 Md.App. at 476-77. The addition of an entirely new operation to a quarry may be considered an impermissible expansion rather than an intensification of a nonconforming quarry use. Here, however, increasing the number of tennis courts from nine to twelve on a nonconforming country club property cannot be considered a "new use." The increase of BCC's tennis courts from nine to twelve is a textbook example of a permissible intensification of a nonconforming country club use.

B. *BCZR Section 104.3 Does Not Apply to the Three Additional Tennis Courts*

Even assuming for the sake of argument that the Board finds the addition of three tennis courts to be an impermissible expansion rather than an intensification, section 104.3 of the BCZR does not apply. BCZR Section 104.3 provides: "[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used." This legislation applies to buildings — not tennis courts.

Further, this issue has already been litigated in Case 93-37-SPH and therefore, the Community is precluded from re-litigating it. Mr. Murphy agreed that the 1993 decision is binding. 2004 Order, p. 13. The Community has offered no reasonable and lawful

explanation as to why the Board should reconsider the issue. Zoning Commissioner Schmidt held that the BCC's nonconforming country club use is based on its land, not its clubhouse building. BCC has already limited itself to a 25 percent expansion of the Outdoor Recreation Area as noted on the Plan to Accompany Special Hearing Petition (Comm. Ex. 2) which was approved in Case 93-37-SPH. As discussed above, increasing the number of tennis courts from nine to twelve falls entirely within the self-imposed 25 percent restriction because the overall area of land dedicated to the Outdoor Recreation Area has not expanded.

Mr. Murphy held that BCC is limited to ten tennis courts under the 25 percent rule of BCZR Section 104.3. Mr. Murphy based his decision on the original nine tennis courts that have already been approved by the County and the Community. BCZR Section 104.3 does not apply to the tennis courts. There is no logical basis for Mr. Murphy's conclusion that "structures and land of nonconforming uses may not be extended more that [sic] 25% of the area of land or 25% of the volume of structures." Mr. Murphy haphazardly used the nine tennis court area as the benchmark for the 25 percent rule as it applies to the three proposed tennis courts. Section 104.3 does not mandate such an analysis.

II. BCC Is Permitted to Construct a Tennis Building

The Community alleges that BCC is not permitted to build a tennis building as part of its proposed tennis improvements. The tennis building has consistently been shown on the plans and has been a part of BCC's proposed tennis activities since inception. Mr. Gill testified that the tennis building has been part of BCC's plan since the early configurations of the plan were made to move the tennis facilities from the Roland

Park campus to the Property. T.4, pp. 74-75. The tennis building is shown on the Plan to Accompany Special Hearing Petition (Comm. Ex. 2), the Plan to Accompany Special Exception Petition which is attached and incorporated into the Agreement (Comm. Ex. 4), and a Drainage Area Map dated May 30, 1996 (Comm. Ex. 6); T.4, pp. 58-65.

The Community has been well aware of the proposed tennis building since at least 1992. For instance, BCC's "News and Views," dated February, 1992 references a "modern first-class facility" at the Five Farms property including "a new tennis house with courtside amenities" and convenient dining facilities..." Comm. Ex. 19; T.2, pp. 148-49. Likewise, the March, 1996 "News and Views" references the "new relocated tennis services building." Comm. Ex. 20; T.2, pp. 149-50. Although the Agreement does not explicitly label any structure as a tennis building, the tennis building is clearly depicted on the approved Plans.

The Community has always known that BCC would build a tennis building on the Property, yet they never objected to it. The Community was represented by counsel when they negotiated and executed the Agreement. They could have easily sought to incorporate a provision in the Agreement prohibiting a tennis building. No limitation was sought or placed on BCC regarding this issue.

III. The Agreement Does Not Limit BCC to Nine Tennis Courts

The interpretation of a contract is a question of law for the court to resolve. *National Mortgage Warehouse, LLC v. Bankers First Mortgage Co., Inc.*, 190 F.Supp.2d 774, 782-83 (D. Md. 2002); *Lerner Corp. v. Three Winthrop Properties, Inc.*, 124 Md.App. 679, 684-85, 723 A.2d 560, 563 (Md.App. 1999). Maryland courts apply an objective standard when interpreting and construing contracts. *College of Notre Dame of*

Maryland, Inc. v. Morabito Consultants, Inc., 132 Md.App. 158, 167-68, 752 A.2d 265, 270 (Md.App. 2000). The principle goal is to affect the intention of the parties. *Id.* When a contract's language is expressed in clear and unambiguous terms, a court should not engage in interpretation. It must look solely to what was written as conclusive of the parties' intent and must presume the parties meant what they expressed in writing. *General Motors Acceptance Corp. v. Daniels*, 303 Md. 254, 261, 492 A.2d 1306, 1310 (Md. 1985); *Nat'l Mortgage*, 190 F.Supp.2d at 783.

The Agreement is expressed in clear and unambiguous terms. Accordingly, the Board should not engage in interpretation to limit BCC to nine tennis courts when the Agreement does not provide for such a limitation. The Agreement provides, in relevant part:

> THIS AGREEMENT, entered into on this 14th day of June, 1993, by and between [BCC] and [the Community].
>
> WHEREAS, BCC has operated a country club on the property known as Five Farms in Baltimore County, Maryland since the 1920s and would like to make certain modifications to the country club including but not limited to improvements to the Clubhouse and other facilities, addition of new parking areas and the construction of nine (9) new tennis courts;...
>
> WHEREAS, the Community has expressed concerns about (i) the existing and future stormwater runoff leaving the country club and passing onto certain properties along Bomont Road, (ii) the potential sound and visual impact of the proposed additional tennis courts and relocated parking facilities adjacent to said tennis courts, and (iii) the possibility that the Boyce parcel may be used for purposes other than for a single family residence, three tennis courts and twelve parking spaces.

> 1. BCC Obligations ...
> B. When and if BCC constructs the proposed tennis courts and adjacent parking, BCC shall handle all stormwater runoff in accordance with the quantity and quality requirements of all then existing and applicable federal, state and Baltimore County laws and regulations.
> Prior to submitting any stormwater management plans pursuant to this Section, BCC shall submit such plans to the Community for their review and comment. BCC shall respond in good faith to each comment received from the Community.

Comm. Ex. 5B, pp. 1-2. (emphasis added).

The Agreement does not state that BCC is limited to nine tennis courts on the Property. Although the first "whereas" clause mentions nine tennis courts, such a non-operative clause does not determine BCC's obligations pursuant to the Agreement. As a general principle in Maryland, "'the operative part' of a contract determines 'what the parties actually did' by entering into the contract." *Inland Mutual Ins. Co., v. Davenport*, 247 F.Supp. 387, 393 (D. Md. 1965) (quoting *Pulaski v. Riland*, 199 Md. 426, 431 (1952). "It is not necessary to decide whether, under other circumstances, 'the operative part' of a contract may ever be limited by the recitals." *Id.* In any event, the "whereas" clause relied on by the Community clearly states that the contemplated improvements include, but are not limited to, nine new tennis courts.

The operative part of the Agreement governing BCC's obligations to the Community is Section 1, entitled "BCC Obligations." Section 1 sets forth what BCC agreed to do when it entered into the Agreement. For example, in paragraphs G and I of Section 1, the parties made their intent clear as to the three tennis court limitation on the Parcel A/Boyce Parcel: "[t]he tennis courts serving [BCC], including the three tennis courts on the Boyce parcel, shall not be lit... the Restrictive Covenant Agreement

(attached hereto as Exhibit A)...prohibit[s] any use of the Boyce property other than as one single family residence, three tennis courts, and twelve (12) parking spaces." The Community also expressed its intent to limit the number of tennis courts on Parcel A/Boyce Parcel in the fourth "whereas" clause: "the Community has expressed concerns about...(iii) the possibility that the Boyce parcel may be used for purposes other than for a single family residence, three tennis courts and twelve parking spaces."

There is no mention of a nine court limitation on the Nonconforming Use Area in Section 1 of the Agreement. Nor is there such a limitation contained in the clause expressing the Community's concerns. The Community was represented by counsel when it negotiated the Agreement. Had the Community intended for a nine tennis court limitation on the Nonconforming Use Area, it could have and would have stated so in the Agreement. It is clear from the Community's testimony that they regret not having limited BCC to the construction of nine tennis courts. Nevertheless, no such limitation exists within the Agreement.

The Plan to Accompany Special Exception Petition (Comm. Ex. 4), which is attached to and incorporated into the Agreement, further supports the notion that BCC is not limited to nine tennis courts. The Plan to Accompany Special Exception Petition only applies to the Special Exception Area. The three addition tennis courts that BCC now proposes are not located on the Special Exception Area. Rather, they are located on the Nonconforming Use Area. The Plan to Accompany Special Exception Petition explicitly states that it does not modify or amend the nonconforming use status of BCC. Comm. Ex. 4.

A majority of the Property was granted nonconforming use status through Case 93-37-SPH. Comm. Ex. 3. The Plan to Accompany Special Hearing (Comm. Ex. 2), was approved in Case 93-37-SPH. The Plan to Accompany Special Hearing does not limit the Nonconforming Use Area to nine tennis courts. For example, in the flexibility notes, the plan provides that "[b]uildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas..." The tennis activities are located in the "Outdoor Recreation Area" on the plan. Certainly the addition of three tennis courts is consistent with the nature and scope of the Outdoor Recreation Area.

Moreover BCC did not intend to limit itself to nine tennis courts on the Nonconforming Use Area when it entered into the Agreement. Mr. Gill, the President of BCC at the time the Agreement was negotiated, testified that "nowhere during the course of all [the] negotiations did the [Community]... suggest[] the limitation of the tennis courts to nine." T.3, p. 74. Mr. Gill further testified that at the time BCC entered into the Agreement, it was clear to BCC that it had latitude to do country club type uses pursuant to the special hearing plan, its notes and the 93-37-SPH Order in the Nonconforming Use Area. T.3, p. 73. Accordingly, the addition of three tennis courts fully complies with the Agreement.

IV. Res Judicata and Collateral Estoppel Preclude The Community From Re-litigating the Nonconforming Use and Special Exception Cases

During the hearing before this Board, the Community introduced much evidence regarding BCC's nonconforming use and special exception status. According to the Community, the fact that BCC is merely seeking a determination of whether it is permitted to construct three additional tennis courts is a breach of the Agreement. *See,*

e.g., T.3, pp. 140. As a consequence, the Community alleges that BCC's nonconforming use and special exception status pursuant to the Orders in Cases 93-37-SPH, 97-384-SPH, and 97-384-SPH are null and void. This allegation is nonsensical.

The Board is not asked to determine whether BCC is entitled to nonconforming and/or special exception status. Those issues have already been exhaustively litigated and re-litigated in the previous cases summarized above resulting in the Agreement. The Community is not permitted to have a third chance to argue that BCC is not entitled to nonconforming use and/or special exception status.

When a proceeding between parties involves the same cause of action as a previous proceeding between the same parties, the principle of res judicata (or claim preclusion) applies and all matters actually litigated or that could have been litigated are conclusive in the subsequent proceeding. *Colandrea v. Wilde Lake Community Assoc., Inc.*, 361 Md. 371, 388-93 (2000). The requirements of res judicata are: 1) that the parties in the present litigation are the same or in privity with the parties to the earlier dispute; 2) that the claim presented in the current action is identical to the one determined in the prior adjudication; and 3) that there was a final judgment on the merits. *Id.* Accordingly, a judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action and is conclusive, not only as to all matters decided in the original proceeding, but also as to matters that could have been litigated in the original proceeding. *Id.* Here, the parties are the same as those in the 1993 and 1997 cases before the Zoning Commissioner, the Community is presenting the same claims as it did in the previous cases, and there was a final judgment by the Zoning Commissioner which was not prosecuted on appeal.

The doctrine of collateral estoppel also applies to the myriad of issues concerning BCC's nonconforming use and special exception status that the Community presented to the Board. Collateral estoppel requires the following elements: 1) the issue decided in the prior adjudication is identical to the one presented in the present proceeding; 2) there was a final judgment on the merits; 3) the party against whom the plea is asserted was a party or is in privity with a party to the prior adjudication; 4) the party against whom the pleas is asserted was given a fair opportunity to be heard on the issue. *Id.* Not only are the parties (and counsel) identical to the prior proceedings, there was a final judgment on the merits, numerous issues decided in the previous cases are identical to the ones the Community presented to the Board, and the Community was given not just one, but two opportunities to be heard on the issues.

The doctrines of res judicata and collateral estoppel "are based upon the judicial policy that the losing litigant deserves no rematch after a defeat fairly suffered, in adversarial proceedings, on issues raised, or that should have been raised." *Id.* at 391. The Community has already claimed and exhaustively argued that BCC is not entitled to nonconforming use status and special exception status in the 1993 and 1997 cases.

Specifically, the Community is precluded from raising issues about the expiration of BCC's special exception; whether BCC has violated the Orders in Cases 93-37-SPH and 93-388-X and whether a violation voids those Orders; whether BCC is entitled to a nonconforming use; and the expansions that occurred on the Property before Case 93-37-SPH. The Community has already been given one "rematch" on these issues. Consequently, the Community is precluded from raising these same issues and claims for a third time before this Board.

V. BCC's Request to Refine the Plans is Not a Breach of the Agreement

Notwithstanding the fact that the Community is precluded from re-litigating BCC's nonconforming use and special exception status, it has no standing to claim that BCC has lost its status because the Agreement has not been breached. BCC has not built twelve tennis courts on the Property. BCC has not built any courts on the Property. Rather, BCC merely proposes to amend the Plans to reflect the elimination of parking, the elimination of an entrance to the tennis area from Mays Chapel Road, the relocation of the tennis building, and the construction of twelve (as opposed to nine) tennis courts. The mere proposal to add three tennis courts does not constitute a breach of the Agreement.

Section 2 of the Agreement lists the Community's Obligations. Paragraph A of Section 2 provides that the Community was required to represent to the Zoning Commissioner their lack of opposition to BCC's Petition for Special Exception, "as shown on the attached revised site plan." The site plan referred to in that paragraph is the plan BCC attached to its petition for special exception in Case 93-388-X. Comm. Ex. 4; Comm. Ex. 5B. Under the Agreement, the Community is obligated to support BCC's proposal as shown on the plan marked as Comm. Ex. 4. That plan shows nine tennis courts with three on Parcel A. The Agreement does not state that BCC is required to build per the plan.

The Community is not obligated to support BCC's proposed refinements to the previously approved plan. However, the Agreement does not prohibit BCC from seeking and obtaining approval for these changes. BCC is entitled to refine the plan and the

Community is entitled to object to those refinements. BCC's mere act of requesting approval for the refinements does not constitute a breach of the Agreement.

A. BCC Did Not Fail to Provide the Community With Stormwater Plans

The Agreement requires BCC to provide the Community with "stormwater plans" for their review and comment prior to submitting the stormwater plans to the appropriate authorities. Comm. Ex. 5B, p. 2. The Community alleges that BCC violated the Agreement by failing to provide a copy of a Drainage Area Map (Comm. Ex. 8) and a Stormwater Management Study (BCC Ex. 2) prior to their submission to Baltimore County. The Drainage Area Map and the Stormwater Management Study were submitted to Baltimore County in November, 2003. However, the Drainage Area Map and the Stormwater Management Study are not "stormwater plans."[4] T.4, pp. 26-30.

The stormwater management plan for the Property has not changed since the Agreement's execution. The underground management facility that will be relied upon by BCC for the construction of tennis improvements has already been constructed. BCC's submission of the Drainage Area Map and Stormwater Management Study do not change the existing system or facility. They were simply provided to Baltimore County for confirmation that the existing stormwater management facility is adequate for the proposed tennis activities. The Community received these documents in March, 2004. To date, the Community has not provided BCC with any substantive comments. T.2, p. 154-55. Accordingly, BCC did not breach the Agreement by failing to provide the

[4] The Drainage Area Map is not a stormwater management plan. T.4, pp. 28-30. The Drainage Area Map shows BCC's existing stormwater management system-- not a proposed stormwater management system. T.4, p. 30. The computations shown in the Stormwater Management Study do not constitute a stormwater management plan. The computations in the Stormwater Management Study address the volume of storage requirement, whereas a stormwater management plan actually shows how a stormwater management facility will be constructed. T. 4, p. 27.

Community with the Drainage Area Map and Stormwater Management Study prior to their submission to Baltimore County.

In fact, the additional stormwater improvements proposed on the site were provided to the Community. BCC Ex. 13A & J; BCC Ex. 3C; T.4, pp. 38-41. The site plans, which were provided to the Community in October, November and December, 2003, detail the stormwater management proposal associated with the proposed tennis improvements. BCC Exs. 3A-C; BCC Exs. 13A-R; T.4, pp. 38-41. To date, the Community has not related any substantive comments to BCC.

B. Any Arguments Concerning the Sound Barrier Are Premature

Section 1(E) of the Agreement governs the parties' agreement concerning the sound barrier. According to that section of the Agreement, "the Community may exercise their option to trigger [BCC's obligation to erect a wall along the entire eastern and southern sides of the three tennis courts on Parcel A] upon providing written notice to BCC within thirty-six (36) months after the construction of the three tennis courts on [Parcel A]." Comm. Ex. 5B, §1(E) (emphasis added). No tennis courts have been constructed on Parcel A. Consequently, BCC is not obligated to erect a sound barrier until the Community triggers that obligation pursuant to the Agreement. The Community may not trigger the requirement to build a sound barrier until after the construction of the three tennis courts on Parcel A.

VI. A Breach of the Agreement Does Not Void the Orders Issued in Cases 93-37-SPH or 93-388-X and BCC Has Not Lost Its Nonconforming Use or Special Exception Status

Even if BCC were to breach the Agreement, the Order in Case 93-388-X (the "Special Exception Order") remains valid and binding on the parties. As stated by

Deputy Zoning Commissioner Murphy in his Findings of Fact and Conclusions of Law, "[o]nce the Agreement was incorporated into the Order [in Case 93-388-X,] any breach of that Order is simply a zoning violation to be processed, and adjudicated within the zoning enforcement arm of the Department of Permits and Development Management (PDM)." Ex. A.

The Community cannot point to any authority for their theory that the Special Exception Order becomes null and void upon a breach of the Agreement. That is because there is no authority for such a proposition. The Community cites *Board of Liquor License Commissioners for Baltimore City v. Fells Point Café, Inc.*, 344 Md. 120 (1996) to support its position that a breach of the Agreement voids the Special Exception Order. T.3, pp. 93-95. *Fells Point Café* is wholly distinguishable from the case at hand. In *Fells Point Café*, an application to transfer a liquor license was granted subject to certain restrictions set forth in an agreement between the home owners' association and licensee. The license stated that it must operate in line with the conditions set forth in the agreement. The licensee later violated many of the restrictions in the agreement. As a consequence, the Board of Liquor License Commissioners placed further restrictions on the license which were held invalid by the Court of Appeals.

Contrary to the Community's contention, the Court of Appeals did not hold that the license in *Fells Point Café* was void because the agreement was breached. Rather, the Court held that when a licensee agrees to reasonable restrictions in order to obtain a license that would clearly not be otherwise granted, the licensee is estopped from later arguing that the Board has no power to place such a restriction on the license. *Fells Point Café*, 344 Md. at 141. The Court ultimately affirmed the Board of Liquor License

Commissioners' authority to adopt the initial restrictions that were consented to by the licensee. *Id.* The only guidance *Fells Point Café* offers to the instant case is that a breach of the Agreement would not void the Special Exception Order – it would simply allow the proper administrative authority to adopt and/or enforce the initial terms of the Agreement.

Unlike *Fells Point Café*, BCC does not contend that the Zoning Commissioner lacked the authority to place restrictions on the country club use via the Agreement and plan incorporated into the Special Exception Order, or that the Zoning Commissioner and/or Board of Appeals lacks authority to enforce the Agreement. BCC negotiated the Agreement and consented to its incorporation into the Special Exception Order. BCC agrees that the Agreement is binding on both parties and fully intends to comply with the Agreement and Special Exception Order. The Community has ample recourse if BCC breaches the Agreement. The Community may institute legal proceedings for breach of contract,[5] or seek enforcement of the Agreement through PDM which could subject the breaching party to fines and penalties. Nonetheless, BCC has not and will not breach the Agreement. Therefore, consideration of this issue is unnecessary. Accordingly, the Special Exception Order is not void and BCC's special exception status remains valid.

As previously held in Case 97-384-SPH, BCC's special exception status has not expired. Comm. Ex. 7, pp. 5-6. The Community is estopped from re-litigating this issue. Nevertheless, it is clear that BCC utilized its special exception immediately. Upon obtaining its special exception, BCC continued its golf use of Parcel B, immediately

[5] The Community has already invoked this recourse by filing suit against BCC in the Circuit Court for Baltimore County in Case No. 03-C-04-4420. In this case, the Community alleges breach of contract and nuisance and seeks injunctive relief to prevent BCC from building anything other than nine tennis courts.

began the preliminary phases of development on the Special Exception Area, and began using the existing residence on Parcel A for country club purposes. As such, the special exception granted to BCC in Case 97-384-SPH remains valid.

VII. PDM Has Granted Development Approval for the Proposed Tennis Improvements and the Proposed Improvements Meet All Relevant Environmental Standards

The Community questions whether BCC's proposed tennis improvements qualify as a "development" and if so whether BCC's proposal is subject to review by PDM. PDM, through the Development Review Committee ("DRC"), determined that BCC's Plan showing the then proposed tennis improvements was in conformance with the Development Regulations of Baltimore County as a "Limited Exemption" of Baltimore County Code ("the Code") Section 26-171(a)(7). BCC, Ex. 1. The DRC reviewed BCC's proposal and issued its approval as stated in its letter dated July 7, 1992. BCC, Ex. 1. As the DRC letter explains, plans qualifying for Limited Exemptions must still comply with all applicable zoning regulations.

The DRC provides applicants with instruction on the process for development approval. The grant of an exemption pursuant to section 26-171(a)(7) of the Code instructs the applicant to proceed directly to permit, subject to zoning approval. The DRC determined that BCC's proposed tennis improvements qualify as a section 26-171(a)(7) exemption. Accordingly, BCC's proposal is exempt from division 2 of Article V of the Code which sets forth the process for development review, approval and public hearings. As a consequence, even if BCC's proposed tennis improvements are considered a "development," the requisite review and approval has already been provided by PDM.

The Community's Petition also alleges that BCC's proposed tennis improvements do not satisfy certain environmental standards. BCC has obtained all the necessary approvals, including those relating to all relevant environmental standards. Mr. Fisher offered the only expert testimony on this issue. Mr. Fisher testified that BCC received approval from Baltimore County for its current proposal. *See*, T.4, pp. 20-22; BCC Ex. 4 (DEPRM Letter dated June 21, 2004). DEPRM'S letter of June 21, 2004 is conclusive and uncontradicted evidence of compliance.

VIII. A Special Hearing is Not Necessary to Approve Modifications to the Nonconforming Use Area Whereas a Hearing or Agreement is Necessary to Approve Modifications to the Special Exception Area

The Order issued in Case 93-37-SPH granting a majority of BCC's Property nonconforming country club use status approves the Plan to Accompany Special Hearing Petition (Comm. Ex. 2), also referred to as the "Nonconforming Use Plan." The Order does not indicate that a special hearing is necessary to approve any modifications to the Nonconforming Use Area. To the contrary, as long as the changes in activities, buildings and improvements are consistent with the nature and purpose of BCC and consistent with the nature and scope of the component site use areas, no further hearings should be required. The flexibility note in the Plan to Accompany Special Hearing Petition (Comm. Ex. 2) is a part of the Nonconforming Use Plan. If the conditions of the flexibility note are met, no further hearings are necessary. The modifications and flexibility inherent in the approved Nonconforming Use Plan have already been litigated. Since the proposed changes to the tennis area are consistent with the approved Nonconforming Use Plan, BCC should be able to proceed to permit without the need for any additional hearings.

On the other hand, as established in Case 97-384-SPH, a special hearing or an agreement between BCC and the Community is necessary in order to approve modifications to the Special Exception Area. Comm. Ex. 7, pp. 14-15; BCC Ex. 16 (Letter dated November 24, 1998 from the Deputy Zoning Commissioner to Mr. Holzer).

IX. Proposed Conditions

The revised plan (Comm. Ex. 1) alleviates more of the Community's concerns than the plan that the Community is currently required to support. (Comm. Ex. 4). The Community has consistently voiced concerns over noise, lighting, traffic, stormwater runoff, visual impacts of the tennis activities, and use of Parcel A for purposes other than the existing residence, three tennis courts and parking. The revised plan eliminates the parking area and paved entrance to the tennis facilities from Mays Chapel Road. This change eliminates all concerns over traffic and lighting and most concerns over visual impacts, noise and stormwater runoff. In accordance with the Agreement, none of the tennis courts will have lighting. Therefore, without the traffic and parking near the tennis facilities, all parking lot and vehicular lights and vehicular noise will be eliminated. As for the Community's stormwater runoff concerns, three tennis courts are permeable and take up less space than the already approved paved parking area.

Although three tennis courts are not the wooded area the Community prefers, they are certainly more aesthetically pleasing and less noisy than the paved and lighted parking area the Community is bound to support pursuant to the Agreement. Even when tennis play occurs, the resulting sounds (only during daylight hours) are slight compared to the sound of automobiles that could surround the tennis facilities all day into the evening hours. However, if BCC is forced to strictly adhere to the plan attached to the

Agreement (Comm. Ex. 4), as opposed to the recent revisions (Comm. Ex. 1), then BCC would be permitted to construct an impervious and lighted parking lot and retain the entrance to the tennis facilities from Mays Chapel Road thus aggravating the Community's concerns over traffic, noise, lighting, visuals and stormwater management.

Nevertheless, as a result of the Board's questions and the Community's concerns, BCC proposes to further modify the Plans in order to satisfy all parties. These proposed modifications may be placed as conditions to BCC's request for approval of its Plan to Accompany Special Hearing (Comm. Ex. 1) as follows:

- Relocate the proposed tennis building so that it is attached to the existing pool building;
- Relocate proposed tennis court 8 so that it is adjacent to proposed tennis courts 1 through 7 (resulting in a line of eight courts with a western-most boundary at the approximate location of the eastern edge of the proposed tennis building as shown on Comm. Ex. 1);
- Further relocate tennis courts 1 through 8 north 10 feet of where courts 1 through 7 are currently shown on Comm. Ex. 1;
- Relocate proposed tennis courts 10 through 12 east so that they are 80 feet from the centerline of Mays Chapel Road;
- Further relocate tennis courts 10 through 12 north 80 feet;
- Relocate proposed tennis court 9 so that it is adjacent to relocated courts 10 through 12 (resulting in a western-most boundary of tennis court 9 being 120 feet east of where the western-most boundary of tennis court 8 is currently shown on Comm. Ex. 1);

The beneficial result of these proposed conditions is that the tennis building and tennis courts will be much farther away from all residences and almost completely off of Parcel A.

In addition, BCC is willing to submit landscape plans to the Office of Planning for review and approval. If the above proposed conditions are imposed by the Board, there will be areas of additional opportunity for dense evergreen landscaping.

CONCLUSION

For the reasons stated above, Baltimore Country Club respectfully requests that the Board approve its Plan to Accompany Special Hearing Petition (Comm. Ex. 1) permitting BCC to construct twelve tennis courts and a relocated tennis building, and to delete the parking and paved areas that were previously approved. In the alternative, BCC respectfully requests that the Board approve the Plan subject to the above proposed conditions.

Respectfully submitted,

G. Scott Barhight
Audra Trouland Cathell
Whiteford, Taylor & Preston, LLP
400 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204
(410) 832-2000
Attorneys for Baltimore Country Club of Baltimore City

343305

IN THE MATTER OF: BALTIMORE COUNTRY CLUB Legal Owner 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District v. DEBORAH TERRY, *et. al.* Protestants/Petitions (Case # 04-508-SPH)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case Nos.: 04-508-SPH & and 04-600-SPH
And	*	
IN THE MATTER OF: BALTIMORE COUNTRY CLUB 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District Legal Owner/Petitioner (Case # 04-600-SPH)	*	

* * * * *

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of September, 2005, a copy of Baltimore Country Club's Closing Memorandum was mailed, first class, postage prepaid to:

J. Carroll Holzer, Esquire
Holzer & Lee
The 508 Building
508 Fairmount Avenue
Towson, MD 21286

Peter M. Zimmerman, Esquire
People's Counsel
Room 47
400 Washington Avenue
Towson, Maryland 21204

Audra J. Cathell

Audra Trouland Cathell
Whiteford, Taylor & Preston, LLP
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(410) 832-2000
Attorneys for Baltimore Country Club of Baltimore City

Baltimore County Government
Department of Public Works

111 West Chesapeake Avenue
Towson, MD 21204-4604

July 07,1992

Whiteford,Taylor and Preston
500 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515

Attention: G Scott Barhight

RE: Baltimore Country Club
Mays Chapel Road

Gentlemen:

The Development Review Committee met on July 06, 1992, to consider the plan submitted for review.

The submitted plan was determined to be in conformance with the Development Regulations of Baltimore County, as a "Limited Exemption" of Section 26-171(A)(7). Compliance with divisions 3, 4 and 5 is required as is compliance with all applicable zoning regulations.

Be advised that a special hearing is required to establish Nonconforming use for the proposal.

If you have any questions, please contact me at 887-3340.

Sincerely,

LES SCHREIBER
Devel'mt Review Comnm. Coordinator
Bureau of Public Services

LCS:lcs
cc: File
Z.A.D.A.M.- Don Rascoe

BACOCLB/REFINE

RECEIVED
JUL 15 1992
WHITEFORD, TAYLOR & PRESTON

EXHIBITS
BCC #1

Department of Environmental Protection and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
David L.C. Carroll, Director

June 21, 2004

Mr. Jeffrey Schwab
Site Resources, Inc.
14307 Jarrettsville Pike
Phoenix, MD 21131

RE: Baltimore Country Club at Five Farms Forest Buffer Protection Plan (Revised 5/28/04)

Dear Mr. Schwab:

Environmental Impact Review (EIR) received a revised Forest Buffer Protection Plan (FBPP) for the above referenced property on June 8, 2004. This FBPP was revised in response to the EIR letter of May 21, 2004 and necessitated by the variance to allow approximately 6,000 square feet of disturbance in the Forest Buffer Easement for the construction of tennis courts and associated storm drains and utilities. The original concept plan called for well over 40,000 square feet of forest to be cleared in and adjacent to the Forest Buffer Easement. However, the tennis court project has been redesigned to reduce forest clearing to no more than 39,000 square feet. This FBPP and the subsequent revised grading/sediment control plans will reflect this reduction of disturbed forest area.

EIR has reviewed the revised plan and has determined that it addresses all previous EIR comments, including reduction of forest clearing. Therefore, EIR hereby approves the FBPP. Please submit the mylar original of the FBPP for stamping and imaging. Once it is imaged, the FBPP will be returned so you can make seven (7) paper copies thereof and submit those copies to EIR.

Please be aware that EIR cannot approve any grading permit until a planting security for the living fence is posted via an Environmental Agreement and a Single Lot Declaration of Intent is filed with DEPRM to address Forest Conservation Regulations. Finally, documentation that the Forest Buffer Easement and associated Declaration of Protective Covenants have been recorded as required by previous March 1 , 1997 variance must be provided to EIR prior to our approval of any Environmental Agreement.

BCC #4

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Mays Chapel & Bormont Roads,
SW/S Mays Chapel Road, 361' SE * DEPUTY ZONING COMMISSIONER
of Chapel Ridge Road
(11500 Mays Chapel Road) * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 97-384-SPH

Baltimore Country Club of *
Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners, through their attorneys, J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners seek a determination relative to seven issues raised within the Petition for Special Hearing as to whether the Owner of the subject property has forfeited the relief granted in prior Case No. 93-388-X and/or whether there has been any violation of the relief granted in prior Cases Nos. 93-388-X and 93-37-SPH, and provisions for the proper enforcement thereof. In addition, the Petitioners seek a determination as to whether there has been any violation or noncompliance with any zoning regulation, and/or proper interpretation thereof, with respect to the use of the subject property, by the Baltimore Country Club, hereinafter referred to as B.C.C. or "Club". The relief requested is more specifically set forth within the Petition for Special Hearing filed in March 1997, and as amended in July 1997.

As indicated above, this matter was originally scheduled for a public hearing on May 28, 1997, but was subsequently postponed so that the

Exh. A

9/30/05

IN THE MATTER OF: BALTIMORE COUNTRY CLUB - Legal Owner; Debra Terry, et al. -	*	BEFORE THE
	*	COUNTY
Protestants/Petitioners **(11500 Mays Chapel Road)** 8th Election District 2nd Councilmanic District	*	BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
Case No.: 04-508-SPH		
	*	Case No.: 04-508-SPH (filed by D. Terry, et al.)
and		
	*	Case No.: 04-600-SPH (filed by BCC)
	*	
IN THE MATTER OF: BALTIMORE COUNTRY CLUB	*	
- Legal Owner/Petitioner – Baltimore Country Club	*	
(11500 Mays Chapel Road) 8th Election District 2nd Councilmanic District	*	
	*	
Case No.: 04-600-SPH	*	

* * * * * * * * * * * *

MEMORANDUM OF "COMMUNITY" PETITIONERS
IN LIEU OF FINAL ARGUMENT BEFORE THE BOARD

Deborah Terry, et al., Petitioner/Protestants, hereinafter referred to as "Community" submit this Memorandum to Support its Request for Special Hearing in Case No.: 04-508-SPH; and in response to the Petition filed by Baltimore Country Club, known as Case No.: 04-600-SPH, by and through ***J. Carroll Holzer, Esquire,*** Holzer & Lee. Further, the "Community" adopts and incorporates the Memorandum of the People's Counsel as if set forth herein, and further says:

STATEMENT OF THE CASE

The Community Petitioners (hereinafter "Community") filed their Petition for a Special Hearing with the Deputy Zoning Commissioner of Baltimore County as a result of a long and tortured history between the Community and the Baltimore Country Club, hereinafter ("BCC"). That Petition was identified as Case No.: 04-508-SPH. The Community raised twelve (12) issues in its Special Hearing Petition. The Community withdrew Issue #11 (T2, 124) during the CBA hearing.[1] The Community issues raised were as follows:

1. Does the Deputy Zoning Commissioner's decision in Case No.: 97-384-SPH require BCC to seek a Special Hearing to determine whether its proposal to construct twelve (12) tennis courts in lieu of nine (9) is permissible?

2. Is the BCC proposed Plan for twelve (12) tennis courts, a tennis building and parking in violation of the Agreement between the parties of June 14, 1993?

3. Does the BCC breach of the 1993 Agreement void the prior Special Exception so that the BCC must reapply for the Special Exception?

4. Does the proposal of BCC for twelve (12) tennis courts require review by the County Department of Permits and Development Management per the Baltimore County Code §26-168(p)(i)?

5. What is the definition of "development" pursuant to the BCZR (hereinafter "BCZR") and does the construction of twelve (12) tennis courts and a building meet that definition?

6. Does the breach of the Parties' 1993 Agreement reopen the Petitioners' issue in Case No.: 98-388?

7. Has the BCC exceeded the expansion permitted a non-conforming use by the BCZR §104 and 104.3?

8. If the BCC has exceeded the expansion permitted by 104.3, has it lost its non-conforming status?

9. Even if the BCC now has the legal non-conforming use, will the construction of twelve (12) tennis courts and an additional building be an illegal expansion of the non-conforming use?

10. Environmental Issues A through E?

After the filing of the Community's Petition for Special Hearing, the BCC filed its own Petition for Special Hearing in Case No.: 04-600-SPH and raised the following questions:

1. What are the geographic limits of the non-conforming use found to exist in Case No.: 93-37-SPH?

2. Within the context of the provisions relating to the outdoor recreational area in Zoning Case No.: 93-37-SPH, does BCC have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the non-conforming use?

3. Whether the Zoning Commissioner's Finding of Fact and Conclusions of Law and Order in Zoning Case No.: 97-384-SPH impose any restrictions on the right of BCC with respect to the non-conforming use?

4. If the Zoning Commissioner determines that Zoning Case No.: Case No.: 97-384-SPH requires a public hearing to approve the configuration of the tennis area

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[1] T1, P. _____ refers to Transcript for Day 1, June 15, 2005; T2, P. _____ refers to Transcript for Day 2, June 16, 2005; T3, P. _____ refers to Transcript for Day 3, June 21, 2005; and T4, P. _____ refers to Transcript for Day 4, August 19, 2005.

as shown on the Site Plan, then BCC seeks approval of the configuration of the tennis area as shown on the Site Plan to accompany this Special Hearing.

The Deputy Zoning Commissioner, after three (3) hearing days in July, August and September, 2004, rendered his Opinion on October 22, 2004. In that Opinion, after a lengthy discussion of the history between the Community and the BCC and a review of the testimony and evidence before him, the Deputy Zoning Commissioner ruled that Case No.: 97-384-SPH required the BCC to seek a Special Hearing for its proposal for twelve (12) tennis courts and a tennis building. Secondly, the Community alleges he mistakenly refused to enforce the Agreement between the parties of June 14, 1993 which was incorporated as part of the Deputy Zoning Commissioner's Order in Case No.: 93-388-X. He then refused to be bound by the Zoning Commissioner's Decision in Case No.: 93-37-SPH as to how he arrived at his result and went on to apply the twenty-five percent (25%) expansion rule under the BCZR and limit the Club to ten (10) courts as a result thereof.

Insofar as the environmental issue presented in Question #10, no evidence was presented by the Community before the Deputy Zoning Commissioner. From this Decision and Order, both parties appealed to this Board for a *de novo* hearing.

HISTORY OVERVIEW OF THE BALTIMORE COUNTRY CLUB - COMMUNITY RELATIONSHIP

Dr. Donna Dow presented a Power Point presentation (T1, P. 20 and Community Exhibit #24) which outlined the Zoning History between the parties. It is as follows:

Case No.: 93-37-SPH

The first chapter of this lengthy battle between the BCC and the Community began with Case No.: 93-37-SPH (Community Exhibit #3). In their Petition for a Special Hearing, BCC

requested approval of "an existing non-conforming Country Club and modifications." The Club, at that time in 1993, was improved with a clubhouse, two 18-hole golf courses, a practice range, swimming pools, comfort stations, rain shelters, maintenance building and a staff residence. In their Petition in 1993, they requested permission to construct nine (9) tennis courts (none had ever existed at the Club's Baltimore County facility), and to relocate an existing parking area. Nothing was noted on that Plan for a Tennis Center Building and there was no testimony relating to a building. In addition, the Club had acquired a residentially zoned piece of property owned by the Boyce family (hereinafter "Boyce Property"), and proposed to annex that property to the existing 406 acres to form a 409 acre tract, all alleged to be non-conforming.

Because of the close proximity of the tennis development and Boyce Property to the adjacent residents, the residents appeared and protested the relief requested by BCC.

In fact, the Community raised the issue of whether or not there existed any non-conforming use at all by BCC based upon certain information provided by a witness fore the Club that the Club had torn down its clubhouse and mansion, relocated it and expanded its size and configuration. The Community filed a Memorandum in Case No.: 93-37 before the Zoning Commissioner raising the issue of exceeding the twenty-five percent (25%) rule (see Appendix A). No evidence was presented by the Club relative to the number and size of the original buildings that were non-conforming.

One of the reasons that the Community questioned the legitimacy of the non-conforming status of the Club was a Memorandum from the Office of Planning dated October 28, 1992 (Community Exhibit #11) and attached hereto as Appendix B. In that document, the Planning Office suggested the application of the twenty-five percent (25%) rule of the ground floor area of buildings. The Planning Office asked for a "timeline" showing the dates of construction and size

of all buildings on the site in order to determine the amount of expansion left under the twenty-five percent (25%) rule." The Protestants, in their Memorandum, (Appendix A), raised the issue about the lack of information provided by the Club concerning the expansion over the years of the BCC to its present size and capacity. Jack Dillon, who was then with the Office of Planning and Zoning, in Case 93-37-SPH testified that the non-conforming use may have been lost based upon the demolition of the then existing clubhouse as well as the potentially improper expansion over the twenty-five percent (25%) rule. This position was further reinforced by Norman Gerber, former Planning Director, who testified in Case 93-37-SPH on behalf of the Community to similar concerns.

The Zoning Commissioner in Case No.: 93-37-SPH then ignored the plain language of BCZR §104 in regard to expansion of non-conforming uses by twenty-five percent (25%) of the ground floor area of the buildings used. He concluded that the twenty-five percent (25%) rule did ***not*** apply to the buildings of the Club but the land and that the footprints of the existing building did not preclude the finding of non-conforming use. Finally, he did acknowledge that it was impossible to add "new land" to the non-conforming use and denied the use of the Boyce tract as non-conforming.

A *de novo* appeal was then filed by the Community to the County Board of Appeals challenging the interpretation of the Zoning Commissioner in regard to the non-conforming issue and the twenty-five percent (25%) rule in Case No.: 93-37-SPH.

Case No.: 93-388-X AND THE AGREEMENT

Meanwhile, another Petition for Special Exception (Community Exhibit #5A) was then filed by BCC for the two (2) parcels A and B. Parcel A being known as the Boyce Property.

The Club proposed to improve the Boyce Property by adding three (3) tennis Courts and twelve (12) parking spaces shown on their Plat.

Again, the Community rose to the occasion, appeared and opposed the request of the Club in Case No.: 93-388-X, marked as Community Exhibit #5A. In the meantime BCC and the Community attempted a global settlement of Case 93-388-X the Special Exception case and the appeal before the CBA for Case No. 93-37-SPH by executing an Agreement (Community Exhibit 5B and C). The Deputy Zoning Commissioner on June 23, 1993, approved the request subject to the terms of the Agreement which had been worked out between the Community and the BCC. The Agreement was dated June 15, 1993 and ***was incorporated into the Deputy Zoning Commissioner's Order***. The Agreement between BCC and the Community called for a limitation of nine (9) tennis courts as noted in paragraph 2 of the Agreement and shown on the plan attached to Case No.: 93-388-X. (Community Exhibit #4).

The Agreement between the Club and the Community was intended to settle and resolve both the Community's appeal before the Board of Appeals of the Zoning Commissioner's decision of March 5, 1993, Case No.: 93-37-SPH and Case No.: 93-388-X. The Agreement called for modifications to the Country Club, i.e., the clubhouse and other facilities, addition of new parking areas and the construction of nine (9) new tennis courts. The Agreement clearly covered both the Special Exception area of the Boyce property and the non-conforming use portion of the BCC. The Agreement recognized the concern of the Community to "potential sound and visual impact of the proposed additional tennis courts and relocated parking facilities adjacent to said tennis courts and the possibility that the Boyce parcel may be used for purposes other than for a single-family residence, three (3) tennis courts and twelve (12) parking spaces." The terms of the Agreement can easily be read and interpreted by the Board (Community

Exhibit 5B). Suffice it to say that on two (2) occasions since 1993 (in 1997 and 2004), the Community has felt that they were not properly notified by the Club of various proposed changes to the Club's plan and that the changes violated the Agreement between the parties resolving the tennis expansion and limiting the tennis courts to nine (9).

Case No.: 97-384-SPH

In 1997, the Community felt compelled to file a Petition for Special Hearing, Case No.: 97-384-SPH, marked as Community Exhibit #7. The Community raised seven (7) issues as to whether or not the Club had forfeited the relief granted in prior Case No.: 93-388-X and/or whether there had been a violation of the relief granted in prior Cases 93-388-X and 93-37-SPH. The Community then raised the issue that the Boyce Property was to be utilized for tennis courts facilities that differed from the Plan approved in Case No.: 93-388-X, based upon a drainage area map that had been submitted by BCC to Baltimore County for review. (Community Exhibit #6). The Deputy Zoning Commissioner, on that issue, found that the request for a ruling was "a bit premature," however he did determine that if BCC decided to alter the design and configuration of the nine (9) tennis courts and related accessory parking that a Special Hearing to approve same would be necessary. (Community Exhibit #7). The BCC acknowledged through testimony that the storm water management plans had not been submitted to the Community and that in fact was a technical violation of their Agreement. The Deputy Zoning Commissioner found that while it was technically a breach, it was remedied when it became known to the BCC.

The Community presented a Memorandum to the Deputy Zoning Commissioner concerning their belief that the BCC attempted to bypass the Agreement (attached as Exhibit G).

While the 1997 case ended for the moment the zoning battle between the Community and BCC, the controversy shifted to an intervening civil law suit filed by the Community against

BCC for damages caused in December, 1996 to their private road (Bomont Road) that serves the residences and neighbors properties. That case resulted in a dollar judgment for damages in favor of the Community in 1998.

The zoning battle between the parties renewed in 2004 with the filing of the two (2) instant cases when the BCC formally filed an amended plan with DEPRM for twelve (12) tennis courts and a tennis building.

STATEMENT OF FACTS

The history between the parties, having been set forth above, brings us to the current case in which the Community again initiated action by filing a Petition for a Special Hearing.

In their Special Hearing request, the Community, through Case No.: 04-508-SPH again believed they had again not been apprised of the Club's true intentions and that the Club planned to construct twelve (12) tennis courts in lieu of the nine (9) defined by the Community's Agreement, as well as an additional tennis building.

The Club immediately responded by filing its own Petition for Special Hearing in Case No.: 04-600-SPH.

PRELIMINARY MATTERS

On Day 1, June 15, 2005 before this Board, the parties agreed to proceed with both cases being tried together with the Community leading off with its Petition in Case No.: 04-508 followed by BCC Case No.: 04-600-SPH.

BCC then reserved its right to raise Motions until the end of the case. Not knowing whether BCC will again raise the issues raised below before the Deputy Zoning Commissioner the Community will respond briefly.

BCC before the Deputy Zoning Commissioner raised two (2) motions. First, that the Deputy Zoning Commissioner dismiss Question #10 proposed by the Community with its subparts. BCC's second issue involved whether a Special Hearing was required to modify the non-conforming County Club granted in Case No.: 93-37-SPH. Both the Community and BCC submitted Memoranda to the Deputy Zoning Commissioner supporting their respective positions.

On August 19, 2004, the Deputy Zoning Commissioner passed an Order concerning these preliminary motions.

The Deputy Zoning Commissioner's ruling as to the Community's environmental Question #10, subparts A through E, found that the question of whether the new plan conforms to environmental regulations is essential to the health, safety and welfare of the Community and was relevant for him to consider. The finding of the Deputy Zoning Commissioner was that Question #10 inquires as to whether the Plan to build twelve (12) tennis courts and tennis buildings must meet or does meet environmental regulations, which would be reasons to deny the Club's Special Hearing request. The Community agrees with the Deputy Zoning Commissioner's ruling on this point.

The Deputy Zoning Commissioner also ruled on the Motion as to whether a Special Hearing was required pursuant to Case No.: 97-384-SPH. The finding was that the Deputy Zoning Commissioner Kotroco's decision in that case required any modification to the BCC Plan for nine (9) courts to have a hearing to determine the impact on the Community. Therefore, this ruling which required a Special Hearing for the new Plan proposed by BCC likewise brought into play the questions posed by the Community in Question #10. The Deputy Zoning Commissioner ruled that the BCC was required to file a Special Hearing to request permission to

file a plan for twelve (12) courts instead of nine (9). The Community also agrees with this decision.

The Community anticipates that before the Board of Appeals, these two (2) issues raised by BCC will be raised again in their Memorandum submitted concurrently with the Community's Memorandum. Rather than address these potential Motions in this Memo, the Community would refer the Board to its Memorandum submitted on July 28, 2004 to the Deputy Zoning Commissioner which is attached hereto as Appendix C. That Memorandum in Argument #1 addresses the clear need for a Special Hearing to determine an amendment to any plan for tennis courts by the BCC that exceed nine (9) as set forth in Case No.: 97-384-SPH. The rationale provided by the Community as to the validity of Question #10 was articulated in the Deputy Zoning Commissioner's Order on preliminary Motions attached as Appendix D.

TESTIMONY AND DOCUMENTARY EVIDENCE PRESENTED TO THE BOARD OF APPEALS

A. *Community Case in Chief*

1. ***Dr. Donna Dow*** - Dr. Donna Dow testified that she is an adjacent property owner of the BCC. Her address is 721 Bomont Road which places her property on the south side of Bomont Road across from the Club (T1, p. 18). Dr. Dow produced a power point presentation based on the Microsoft program with a written handout of each of the power point slides for the Board's convenience. (T1, p. 20).

Dr. Dow (hereinafter "Dow") testified that from the beginning when BCC first introduced the issue of tennis courts, the Community along Bomont Road and Mr. Tubman on Mays Chapel Road felt that the Club with 409 acres should have placed the tennis courts in an area on the Club premises that was not jammed next to and which would impact an existing residential neighborhood (T1, p. 24). Also see, Tubman testimony (T2, p. 203-4).

She recounted the history of Zoning cases 93-37-SPH and 93-388-SPH and she testified that the Community in the spirit of compromise entered into an Agreement in which they agreed to waive their objections to the BCC request for a Special Exception in Case No.: 93-388-X and give up the Community's appeal to the County Board of Appeals in Case No.: 93-37-SPH-SPH. In return, the Community believed it was getting a limitation on the Club's expansion to a limit of nine (9) courts. (T1, p. 127). She testified that the Community's initial allegation is that the BCC has breached that Agreement by repeatedly changing the plan, enlarging the number of courts and adding a proposed tennis building. (T1, p. 128). She identified Community Exhibit #5B as the Agreement entered into between the BCC and the Community. She pointed out that the Agreement, written by BCC's attorney, G. Scott Barhight, called for the construction of nine (9) courts and that there was also no mention of a tennis building either in the Agreement or on the Plan. (T1, p. 30-31). She then testified and introduced Community Exhibit #19 which was a BCC newsletter dated 1992 indicating their desire to construct nine (9) courts. (T1, p. 32-33). A second newsletter dated 1996 corroborated the requested nine (9) courts. (Community Exhibit #20).

Dow then proceeded to examine a series of Site Plans from 1993 to 2004 which progressively showed that the BCC's proposal for nine (9) tennis courts and no tennis building expanded to a request for twelve (12) courts and a tennis building, all of which exceeded the terms of the 1993 Agreement. (T1, p. 34-41). (**NOTE:** At that point in the hearing before the Board, the question was raised as to whether the Board would have the authority to enforce the Zoning Commissioner's Order which included adopting the terms of the Agreement in said Order. (T1, p. 49-50). BCC conceded that the Board has the power to enforce its Order. They raised the question of whether or not the Community could be before the Board of Appeals and

the Circuit Court at the same time. This question will be addressed in the Legal Argument). (T1, p. 50).

Dow then proceeded to provide the Board with schematic maps of the area marked as Community Exhibit #21, 22, 23. (T1, p. 55-59). These exhibits illustrated the location of the homes of the Community Petitioners and the site location of buildings and activities on the BCC property.

Dow then, in response to a question from the Board, clarified that at the present, the original nine (9) tennis courts were never built and presently there are ***no*** tennis courts on the Club property. (T1, p. 62, 63).

Dow then testified in regard to the Community's concern for Bomont Road which is a private road owned by the Community and the environmental difficulties to it that resulted from the BCC's site over the years. She testified that there was a construction accident in 1996 on the BCC property which resulted in flooding and destruction to Bomont Road and the culvert. Litigation by the Community was required to seek financial reimbursement from the Club. (T1, p. 75). Dow then testified extensively as to the locations of a mainstream channel under Bomont Road and two (2) swales, a primary swale and a secondary swale which feed the main channel stream under Bomont Road from locations on the BCC. (T1, p. 76-77). Dow testified that the construction by the Club, which resulted in the overflow of mud and water onto Bomont Road, of a 40 foot high mainstream retaining wall which was filled in order to provide a parking area for the Club west of the clubhouse and north of the Community. (T1, p. 81). Dow then testified that in order to place the twelve (12) tennis courts onto the site as proposed, woodlands that currently provide buffering to the Spies property and to the Community would have to be removed. (T1, p. 88).

Dow continued her testimony on Day 2 of the proceedings – June 16, 2005. Dow then turned her attention to Community Exhibit #2, which is a Site Plan for the Special Hearing in Case No.: 93-37-SPH. She indicated that there was a blue dot noted over a square with an "X" in it. She testified that the BCC is alleging that this square with an "X" was a tennis building that was part of the 93 Case. She disputed that testimony when she testified that no building was ever proposed on Community Exhibit #2. She testified that in 1993 there was no testimony that this "X" was a building, but rather from her notes, the testimony referred to a "viewing stand" for spectators in this location. (T2, p. 6-9). Dow also testified that there is no mention of a building in the Agreement between BCC and the Community. (T2, p. 9).

Finally, Dow again testified, regarding the main retaining wall that caused the construction accident in 1996, that it was 250 feet long with a perpendicular wall to it of approximately 100 feet in length. (T2, p. 18). Dow again testified that Community Exhibit #4, was the Plan that was actually attached to the 1993 Agreement and was also the Plan incorporated into the Zoning Commissioner's Order in Case No.: 93-388-X. This Plan provided for nine (9) tennis courts. (T2, p. 20-21).

Dow was then requested to address the Questions Presented by the Community's Petition for Special Hearing. In response to Question #1 as to whether a Hearing was required to change the Plan for BCC from nine (9) to twelve (12) courts, she referred to Community Exhibit #7, the Deputy Zoning Commissioner's Decision in Case No.: Case No.: 97-384-SPH at page 8, quoting, "should the BCC decide to alter the design and configuration of those nine (9) tennis courts and related accessory parking area from that shown on the previously approved plan, a Special Hearing to approve same would absolutely be necessary." (T2, p. 26).

Dr. Dow testified that no tennis court has ever been built and that the Plan attached to the Agreement binds BCC to nine (9) courts. (T2, p. 27). Again testifying to the blue dot on previously noted Community Exhibit #4, Dr. Dow produced Community Exhibit #5A, B and C which were three (3) pages of her notes from the hearing in Case No.: 93-37-SPH in which the witness for BCC, Paul Spellman, the General Manager, stated the area which was designated as the blue dot was a "spectator area in the hill between the pools and the courts for 35-45 people." (T2, p. 29). To further support her position that in 1993 no tennis building was contemplated by the parties, Dow produced the Transcript of the proceedings in Case No.: Case No.: 97-384-SPH dated November 13, 1997 as Community Exhibit #26. In the Transcript at page 245, line 13, the testimony indicated that there are some ***major*** changes to the 1993 plan ... the twelve (12) parking spaces that were on the Boyce Property have been moved up on to the non-conforming portion ... the tennis courts have been rearranged so there is no roadway between the six (6) courts and the three (3) courts as originally was planned. ***There is a tennis center***. That has been put in the middle of the six (6) courts and I think those are the major changes ..." (T2, 42 and 43).

Ed Hale, the BCC engineer at the time on page 254 of the Transcript Line 2 indicated ... as a continuing process with the Club there is a building committee that consist of Dollenberg, Palmer, Spellman and Rhinehart. (T2, 43-44). Dow concluded that this is clear evidence to show that the tennis building was ***not*** proposed until after the Agreement between the Club and the Community was entered into and was ***not*** part of the arrangement permitted under the Community's Agreement.

Dow explained how the present Petition filed by the Community was initiated. In March, 2004 one of the neighbors went to the County file in DEPRM and found plans which

have now been placed on the Board which is Community Exhibit #8. This was a drainage area map and it had ***not*** been provided to the Community by BCC. Obviously, it provides for a tennis center and twelve (12) courts. This plan differed from that provided to the Community by Mr. Barhight in the fall of 2003. Dow testified that the Community felt that this was a violation of the requirement of the Club to provide information under the 1993 Agreement. (T2, 56-60).

Dow then addressed the subject that the two (2) courts presently on the BCC proposed plan are within 100 feet of an RC boundary line with the Spies property. She testified that BCZR §406(a) regarding tennis facility states: "no tennis facility shall be placed within 100 feet of an RC boundary line." (T2, 62). Dow raised this as an issue for the Board to determine. Her testimony was that Courts 8 and 9 of the BCC proposal were within 100 feet of the boundary line of the Spies property. (T2, p. 64). Subsequently, on cross-examination, BCC's landscape architect Michael Fisher confirmed that the edge of the courts was within 100 feet of the Spies property. (T4, p. 47-48).

Dr. Dow then turned her attention to the factual issue of whether or not in a non-conforming use case, the square footage of buildings contained on the site was relevant. She testified that in Case No.: 93-37-SPH, the Zoning Commissioner, Larry Schmidt ruled the square footage of the buildings was irrelevant in his determination. She testified that there had been no evidence as to the square footage of the buildings proposed contrary to the request of the Planning Office note previously discussed as Community Exhibit #11. Dow testified that the clubhouse and buildings from 1964 through the present have been expanded and new buildings added. The clubhouse was razed and replaced. (T2, p. 88-91). Dr. Dow explained to the Board the methodology she used for determining square footages of the BCC buildings. She took a photograph, measured a discernable point on the photograph and measured that distance on

another scaled plan. (T2, p. 101). She then was able to determine the scale of the photograph and measure the square footage of the buildings. (T2, p. 102-104). Dow testified in regard to Community Exhibit #28 where she calculated the ground floor or footprint relative to square footage of the BCC buildings. She measured the square footage of the buildings in 1964 and calculated a total of 18,714 square feet. She calculated the footprint as 32,714 square feet in 1998 by using Community Exhibit #29. (T2, p. 111-112). From these figures, Dr. Dow concluded that since 1964 the Club has exceeded the Baltimore County Zoning Regulation twenty-five percent (25%) rule for purposes of expansion and therefore the expansion has already been improper and illegal.

Dr. Dow then testified as to her ***personal*** concerns concerning the impact of the tennis courts. (T2, p. 126). These concerns related to the storm water drainage off of the subject site which impacts her property (T2, p. 126-127); she testified that it is noisy now with the swimming pool and the Club and the tennis courts would further impact and create additional noise. She testified that tennis is a much longer season than the swimming pool and starts earlier in the day and runs later in the evening. (T2, p. 128). She testified that the noise issue and the lights were the reason that the Community entered into an Agreement with the Club to limit a defined plan in that they did not want tennis courts next to their homes. She testified that the current proposal moves the courts even closer to neighboring residents than the initial proposal. She complained about the intrusiveness of the existing lights from the Club. (T2, p. 130-133).

2. ***Courtney Spies, Jr.*** – Mr. Spies is the closest neighbor to the BCC. His property line is located within 100 feet of the tennis courts and his house is slightly farther than that from the Courts. His parents lived in the home prior to his living there and were parties to the 1993 Agreement.. His concerns are storm water management (T2, p. 184); and noise in which he

indicates that the Courts will be only 20-30 yards from his house. (T2, p. 188). He noted that there are on-going drainage issues from the BCC since the 1960's, affecting his driveway. Over the period of time that he has resided there, some 40+ years, there have always been noise problems with the Club related to car doors closing, banging, lights, car alarms, events that go well into the evening until midnight. (T2, p. 189). He explained why he believed the addition from nine (9) to twelve (12) courts would further negatively impact his property related to the increase of volume of noise, the closer distance of the courts to his house, the current lighting from the parking lot in existence at the present time lights up his bedroom and the northernmost rooms of his house. He believes that the increase of courts so close to his house will decrease his property values. (T2, p. 190-193).

3. ***Joseph Tubman*** – Joseph Tubman testified as an adjacent or adjoining property owner living directly across Mays Chapel Road from the proposed tennis court area. He objected to adding tennis courts to the BCC facility and to the location of the courts originally, but agreed with the neighbors to enter into an Agreement in 1993 to limit the courts to nine (9) courts if a sound barrier was proposed. He too testified there was no building proposed by the Club in 1998. (T2, p. 194-197). He further testified as to the nature of sounds coming from the pool area disturbs him at the present time; noise emanates from the parking area and the pool area to his house. He testified that the prevailing winds come from a northwesterly direction which bring food smells and exhaust fumes and noise from the tennis area directly to his home. (T2, p. 202).

4. ***Deborah Terry*** – As a property owner on Bomont Road, she testified as to her concern about the streams and the storm water management damage that has been occasioned by the Club and continues to exist due to the Club's construction efforts in the areas so close to the

adjacent neighborhood of Bomont Road. (T2, p. 207-213). She is concerned about the access to the road for emergency vehicles.

5. ***William Toland*** – Mr. Toland resides at 830 Bomont Road and he has lived there since 1960. He has seen the Club grow and develop over the years. (T3, p. 5-9). Toland testified that the neighbors still have storm drainage problems from water running from the Club coming across his driveway and across Bomont Road which he utilizes to access his house. (T3, p. 7-10).

6. ***Keith Bowers*** – Mr. Bowers testified as an adjacent property owner. However, he has particular areas of expertise. He is the President of Bio-Habitats, Inc., which is an environmental and landscape architecture firm. He does environmental planning, restoration, stream work and landscape architecture. (T3, p. 22). He is a registered landscape architect. His specialty is stream restoration. He has been certified as a professional wetland scientist and registered as such and he teaches at University of Maryland, University of Virginia and Morgan State University relative to water quality and best management practices. He has qualified as an expert in water quality, best management protection stream restoration in Baltimore County before this Board. (T3, p. 22-25). He has resided on Bomont Road for four (4) years and is familiar with the topography on both the BCC site and his own property. His concerns include the fact that his property intercepts both drainage swales that come down, one to the east of Spies driveway that flows through and onto his property before it hits the perennial stream and the other drainage swale which forms the stream and then goes through his property before hitting the stream past his property. He believes that the twelve (12) courts impact the neighborhood and the runoff problem in a number of ways. He does not believe that the proposed courts will infiltrate the water. However, even if they do infiltrate the water in a severe storm, the proposed

storm drains along both the swales will funnel water to the outfalls which is a proposed rock apron above his property. He has seen these aprons fail to work especially in a wooded area where there is little ground cover like the BCC site. (T3, p. 30). Bowers was familiar with what occurs to stream channels and stream evolution when you change the land cover above them in that they cannot handle the additional runoff. Their beds tend to down cut and they tend to over-widen these streams. (T3, p. 31). He testified that you can see that happening from the BCC runoff at the present time next to Mr. Toland's house. He is concerned that the additional forest buffer taken down and increased runoff associated with these additional courts there will be more erosion taking place in the stream channel that traverses his property. (T3, p. 32). He is also concerned as are the other neighbors with noise and lighting. (T3, p. 35). He further testified that the Maryland 2000 Storm Water Management Regulations have ***not*** been applied to the Club's proposed expansion in this case and that causes him concern. He believed that the County should have reviewed the BCC proposal pursuant to the 2000 Storm Water Management Regulations. (T3, p. 36).

Bowers was concerned that the infiltration from the tennis courts will only infiltrate storm water up to a certain intensity and after that it cannot infiltrate any faster and they have storm drains built into these tennis courts to take the overflow and put it in a pipe to be discharged downstream. Secondly, the infiltration of the court surfaces is only as good as the underlying soils. (T3, p. 39-40).

Finally, he is concerned that the proposal further intrudes into the forested area and that in effect, will magnify and bring closer to his neighborhood and his home the problems generated by the Club. (T3, p. 42).

7. ***John J. (Jack) Dillon, Jr.*** – Mr. Dillon qualified as an expert in areas of land planning, land use and zoning. He has qualified as an expert many times before the County Board of Appeals. (T3, p. 66). He worked for Baltimore County Office of Zoning and Planning for approximately 30+ years. His resume' is identified as Community Exhibit #32.

First, Dillon testified that when he was with the Baltimore County Office of Planning in 1993, he authored a report marked as Community Exhibit #11, which was the standard Zoning Office and Planning Response to the Petition being filed by the BCC in Case No.: 93-37-SPH. (T3, p. 69-70). The Board will recall that the Zoning Advisory Committee comment questioned the square footage of the existing structures on the BCC and raised the issue of the twenty-five percent (25%) rule which was ignored by Larry Schmidt, the Zoning Commissioner in his 1993 decision.

Dillon then explained his review of all of the files pertaining to this case, a visit to the site and the preparation of certain documents which highlighted his testimony.

Dillon then began a discussion of non-conforming use theory in Baltimore County and the BCZR. He testified that he was familiar with BCZR §101 and §104. He testified he was familiar with the *McKinney* case, the *Phillips* case, the *Jahnigen* case, the *Gardner* case to name a few, that deal with non-conforming use issues. (T3, p. 78). He also testified that as the official Planning Office author of Community Exhibit #11, that in 1993, he believed the twenty-five percent (25%) rule applied to BCC since there had never been a hearing on whether it was a non-conforming use until 1993. He testified that the critical date of the BCC becoming non-conforming was September 26, 1963. (T3, p. 82).

Dillon opined that the BCC became non-conforming (agreeing with Zoning Commissioner Schmidt) on September 26, 1963. (T3, p. 83). Dillon opined that the Community

entered into an Agreement for nine (9) courts which is incorporated in the Order of the Deputy Zoning Commissioner. Dillon believed that the Board has the responsibility to enforce that Order (and thereby enforce the Agreement) under the auspices of the *Blakehurst* case (**NOTE:** That case will be discussed in the Legal Argument portion of this Memorandum). Dillon opined that if the Board does not enforce the Agreement and the Order of the Deputy Zoning Commissioner in Case No.: 93-388-X that condition should cause a reopening of the entire issue of a non-conforming use of the BCC. (T3, p. 90)).

Dillon disagreed with Zoning Commissioner Schmidt's determination that the Country Club use itself as a golf course was the land use and that the buildings were accessory and were irrelevant. (**NOTE:** People's Counsel in its Memo supports the fact that Schmidt's decision as to that issue was in error). The Community appealed to the County Board of Appeals in Case 93-37-SPH) on that issue. Dillon then testified that buildings are a significant part of the Country Club and that the golf course is one activity that takes place as part of the Country Club. Dillon opined that the building associated with a clubhouse, the swimming pool are a part and parcel of the entire Country Club operation. He believed then in 1993 as well as now, that the Zoning Commissioner's failure to establish a baseline as of 1963 of the square footage of the building was in error. (T3, p. 104). Dillon further explained that the tennis courts cannot be construed as part of the Club when they had never been part of the alleged non-conforming use part of Five Farms Country Club in Baltimore County. He likened the argument to *Phillips v. Howard County* case where the Court ruled that parking lots are not all the same. Here, Dillon testified that some Country Clubs are just a clubhouse and some Country Clubs are with golf courses and some have clubhouses with swimming pools and tennis courts. There are a whole variety of Country Clubs so in Dillon's opinion, these tennis courts are a new entity and not just

an accessory use to the Country Club. It is a new entity being added. It is not a lawful intensification of an existing non-conforming use. It is an illegal expansion establishing a new use that is going to require additional land to be used, a new facility to be built. (T3, p. 105-106). He also likened the situation to the *Gardner* case in which the non-conforming use was a sand and gravel operation. They then asked to have a washing facility added. The Court said it was not an intensification of an existing use. It was a new use. He likened that situation to the BCC. (T3, p. 107). Dillon also questioned how the Deputy Zoning Commissioner arrived at permission for ten (10) courts when there are currently ***no*** non-conforming use for the tennis courts. They do not exist. They never have existed. They are not there so to apply the twenty-five percent (25%) rule to something that is non-existing does not appear to follow the BCZR. (T3, p. 109).

Dillon buttressed his opinion that the Zoning Commissioner's Order in Case No.: 93-37-SPH was null and void on the basis that it was replaced by the Agreement between the parties. He testified that if the Board does not enforce the Order of the Deputy Zoning Commissioner in Case No.: 97-388-X which called for nine (9) courts, you have to go back and relook at the validity of the non-conforming use all over again. (T3, p. 111).

Dillon also confirmed Dow's testimony that the earlier Plats in Case No.: 93-37-SPH and Case No.: 93-388-X did ***not*** contain reference to a tennis facility or a tennis building. (T3, p. 111-112).

Dillon further confirmed Dr. Dow's analysis of the square footage of the buildings by using a separate methodology. He confirmed the fact that the methodology that Dr. Dow used was not complicated and a high school student should be able to do it. (T3, p. 113). However, Dillon went to the U.S. Geological Survey and found the tile, that the Dow blowup was taken from and it is one inch to 20,000 inch scale. He joined with Mr. Riggor

of the U.S. Geological Survey and went through the process and compared the size of the buildings. (T3, p. 115). See Community Exhibit #35 where in the 1964 analysis, Dr. Dow had come up with the total square footage of 18,714 square feet. Dillon arrived at a figure of 16,400 square feet which made his square footage less than Dr. Dow's so she was being more generous to the Club. (T3, p. 118). Then when he compared the figures in 2001 to her figures, his scaled out at 37,850 so he was a little bit higher than hers in that she was 32,714. As a result of these calculations, based on the numbers, Dillon concluded that the Club has substantially exceeded the twenty-five percent (25%) increase permitted under the BCZR. (T3, p. 119). The testimony of Dillon is confirmed by the Baltimore County Assessments and Tax Records showing a total enclosed area of 43,492 square feet (some of which would be a second floor gross footage). (T3, p. 120).

Dillon likewise confirmed the fact that the proposal for the tennis courts submitted currently by the BCC placed the tennis courts within 100 feet of the RC Zoned boundary line related to the Spies property. Dillon referred to §406(a) and §406(a)(3) to illustrate that the tennis facility is not permitted to be within 100 feet of any site boundary line. (T3, p. 122).

With Dillon's testimony the Community rested its case in chief.

B. ***Country Club Case.***

1. ***Frank Palmer, IV*** - Palmer testified that he is the President of the Club and had been a member and was involved from 1992 with a Master Plan. He acknowledged that in 1992 the Master Plan consisted of nine (9) tennis courts. (T3, p. 197). He further acknowledged that the Club signed an Agreement with the Community for nine (9) courts. (T3, p. 204). He further

acknowledged that he had not been down on Bomont Road to view the Country Club nor to see the effects of storm water following a storm. (T3, p. 220-221).

2. ***Mike Fisher, Site Resources*** – Fisher was not a licensed civil engineer, nor an environmental expert, nor a zoning expert. (T4, p. 10). He qualified as a landscape architect. He acknowledged the BCC retained his firm in the Fall of 2002 replacing the previous engineer, Daft, McCune & Walker (T4, p. 43) and that his testimony about events before that date were not first hand knowledge but based on a review of the files. (T4, p.43). He testified the proposal met the County Forest Conservation Requirements and Storm Water Management Requirements. He testified that the changes will not adversely affect the Community.

Fisher acknowledged that the tennis courts would be twenty-three (23) feet higher than the Spies house. (T4, p. 47). He further testified that from the closest point from the edge of the tennis courts to the Spies property line was forty (40) feet. (T4, p. 48).

In Fisher's testimony, in regard to the adverse impacts that would be occasioned upon the Community, he had to acknowledge that he did not know the specifics of how or when the tennis courts would be used and what hours and what number of days per week. (T4, p. 48-49). Fisher further acknowledged that it would be of benefit to the Community to move the three (3) courts located on the Boyce property as far away from the Community as possible and that would be of benefit. (T4, p. 51). Fisher further acknowledged that since the storm water issues that flooded the Bomont Road in the fall of 2002 were not matters that he was personally acquainted with. (T4, p. 54).

3. ***Gary Gill*** – Gill testified that he had been a member of the BCC for twenty-one (21) years that he was the President and CEO of McKenzie Commercial Real Estate Service and that he was a former President of the Club. (T4, p. 66). Gill expressed surprise that the

Community believed that the 1993 Agreement limited the Club to nine (9) courts and that the limitation of nine (9) courts did not limit the Club on the non-conforming use portion (T4, p. 72-73).

4. ***Megan Staczek*** – Ms. Staczek is a member of the BCC active in tennis and she testified generally in regard to interclub play the type of courts and the number of individuals utilizing their proposed courts. (T4, p. 79-89). She acknowledged that she had no knowledge of the proceedings in 1993, 1994 or 1995. (T4, p. 89). She acknowledged that there was interclub play in 1993. (T4, p. 90). She indicated that there would be about 640 juniors playing on the courts. (T4, p. 92). She likewise testified that the adult women playing tennis currently consists of 48 teams of four (4) members per team utilizing the courts. (T4, p. 94). Finally, she testified that the potential number of tennis players from the Club that is open to all Club members is approximately 1,800. (T4, p. 98).

C. ***Community Rebuttal.***

Dr. Donna Dow returned to testify in rebuttal. Dr. Dow rebutted Gill's testimony that there was no limit to the number of courts but referring to the Agreement language which shows nine (9) courts on the Plan, and the Plan attached to the Agreement showing nine (9) courts. She also reminded the Board that the Agreement did not settle just the Special Exception case but also the Special Hearing case which related to the non-conforming use portion of the Club property. (T4, p. 118-119).

Dr. Dow then rebutted the testimony of Fisher as to the impacts on the Community again citing the physical contours between the BCC and the adjacent Bomont Road community. She referred to the environmental issues raised by Mr. Bowers (T4, p. 122) and finally she revisited the issue of whether in 1993 the square with an "X" in it could be considered a tennis facility and

again restated the Community position that her notes and the Plan did not reflect a building. (T4, p. 124-129).

QUESTIONS PRESENTED

1. **The CBA has power and authority to enforce the Deputy Zoning Commissioner Order of Case No.: 93-388-X incorporating the Agreement between the BCC and the Community.**

2. **The BCC non-conforming use and its violation of BCZR §101 and §104.**

3. **BCC needs to comply with 100 foot setback requirement imposed by BCZR, §406.**

4. **The CBA should DENY the BCC's Special Hearing request for twelve (12) courts and a tennis center.**

LEGAL ARGUMENT

1. **The CBA has power and authority to enforce the Deputy Zoning Commissioner Order of Case No.: 93-388-X incorporating the Agreement between the BCC and the Community.**

CBA Power to Enforce the Agreement

The CBA has power and authority to enforce the Deputy Zoning Commissioner's Order of Case No.: 93-388-X incorporating the Agreement between BCC and the Community.

The facts in this case related to the Agreement between the Community and the BCC are uncontested. In 1993, the BCC petitioned the Zoning Commissioner for Special Hearing seeking approval of an existing, non-conforming Country Club and modifications in Case No.: 93-37-SPH. This was the Community's first introduction to the request of the Club to locate tennis courts in close proximity to the Community members living along Bomont Road and Mays Chapel. The Community appeared in opposition to the request of the Club and after the Zoning Commissioner granted approval on March 5, 1993, the Community appealed to the Baltimore County Board of Appeals for a *de novo* hearing alleging among other things that the

Zoning Commissioner erred by not finding that the Club had illegally expanded over the years. (See Appendix A). The Plan for the Club's tennis facilities at that point numbered nine (9) courts utilizing in part the Boyce Property. The Community was prepared to proceed with the *de novo* hearing before the Board when the Club filed a Petition for Special Hearing in Case No.: 93-388-X to permit a Special Exception on the Boyce Property for three (3) tennis courts. At that point, the Community again appeared in opposition to the Club's request; however, after diligently negotiating with the Club and in good faith to resolve the concerns about the proposal for tennis courts adjacent to their property, the Community and the Club entered into an Agreement on June 14, 1993 attempting to globally resolve the issues between the two (2) parties.

As Dr. Dow testified, the Agreement was drafted by Counsel for the BCC and it specifically indicated that the Agreement related to nine (9) new tennis courts (Agreement: page 1, paragraph 2) and provided for their hours of operations for the three (3) tennis courts on the Boyce Property and then ***different*** hours of operation for the remaining six (6) courts on the remainder of the BCC property. Nothing was mentioned in the Agreement or the case concerning the construction of a tennis building.

It is significant to note that the Plan accompanying the Agreement and approved in Case No.: 93-388-X did not contain a Plan for a tennis building. The Board will also recall that Dr. Dow testified that her notes from the initial hearing indicated that the area between the pool and the courts was to be a "spectator's viewing area with perhaps benches."

In Case No.: 93-388-X, the Agreement was submitted into evidence and incorporated into the Deputy Zoning Commissioner's Order (Petitioner's Exhibit #2A (see Opinion, page 3)). As a result of the Agreement, the Community withdrew its opposition to the Petition for Special

Exception for the three (3) courts on the Boyce Property and dismissed with prejudice, its appeal of the Zoning Commissioner's Order in Case No.: 93-37-SPH which was at that time before the Board but not yet heard. On June 23, 1993, Deputy Zoning Commissioner included in its Order "the terms of the Agreement dated June 15, 1993 (Exhibit 2A) are incorporated into this Order and must be complied with as part of the approval herein granted."

In 1997, when the Community petitioned for Special Hearing in Case No.: 97-384-SPH to determine whether or not the Club was attempting to construct a tennis facility that differed from that permitted in the Agreement attached to Case No.: 93-388-X, the Deputy Zoning Commissioner found that the Community's request was premature and that the Club had not yet decided on a final design for a tennis facility. He did say in the Opinion, page 7 that "these individuals (the Community), ***entered into a very specific Agreement*** with the owners of the subject property which included Restrictive Covenants that governed the development of Parcel A ***and*** the proposed tennis court facility." (emphasis supplied). He further stated, "Owing to the intentions of the parties at the time the Special Exception was granted, and the Agreement they entered into, it is only reasonable that the ***Community be given full assurance as to the exact design*** of the tennis court facility." (emphasis supplied).

In Case No.: 97-384-SPH, Deputy Zoning Commissioner then went on to say, "in Case No.: 93-388-X, the BCC was given approval to construct nine (9) tennis courts and an accessory parking area for up to twelve (12) cars." The design and layout of this facility is clearly shown on Petitioner's Exhibit #6, the Site Plan approved in that case ... "Therefore, any deviation during the construction phase of the tennis court facility from that which is shown on Petitioner's Exhibit #6 would have to be brought back before the Deputy Zoning Commissioner for a determination as to whether any modification thereto would be appropriate."

It is clear then that the Deputy Zoning Commissioner Kotroco believed the Agreement that was entered into which he incorporated in Case No.: 93-388-X called for no more than a total of nine (9) tennis courts on the Baltimore Country Club regardless of whether they were located on the Special Exception area or the non-conforming use area.

The question before this Board is whether or not you have the authority to enforce the Agreement which became part of the Deputy Zoning Commissioner's Order of Case No.: 93-388-X. The Community answers this question in the affirmative for the following reasons.

Blakehurst Case

The answer to this question can specifically be found in a prior Decision of this County Board of Appeals in Case No.: CBA-99-152 and Case No.: CBA-99-159, In the Matter of: *Blakehurst Life Care Community*. In the *Blakehurst* case, the Community had lengthy negotiations with the developer of a life care community on Joppa Road in Towson, Maryland in which the Community ultimately entered into an Agreement (Restrictive Covenants) to limit the size and growth of the *Blakehurst* life care facility. *Blakehurst* sought to circumvent the Agreement between the parties and the Community appealed certain approvals by the County for *Blakehurst* to the County Board of Appeals.

Blakehurst Board of Appeals Order

In the Board's Order of November 15, 2000, the Board discussed this very question of the enforcement of a private Covenant or Agreement which has become a part of a Zoning Commissioner's Order by way of a Settlement Agreement. (See Appendix D). In the *Blakehurst* case, a private Agreement between the parties was entered into and incorporated by the Board into a Consent Order. The Board fashioned a Consent Order adopting the Restrictive Covenant Agreement into a formal Order of the Board. In the Board's Opinion, page 13, while

recognizing that normally violations of a private Restrictive Covenant Agreement are usually subject to the jurisdiction of the Circuit Court, this Board has authority to enforce its own Order (or Orders of the Zoning Commissioner). They stated, "however any Order of this Board is subject to enforcement by the County and the Board as the author of its Order is entitled to its interpretation and enforcement by County officials." The Board then went on to interpret the private Restrictive Covenant Agreement and found for the Community in its decision.

The Board's Decision was appealed to the Circuit Court by *Blakehurst*, which affirmed the Board on the same theory. (Appendix E).

Also, ***at the same time*** the Board was administratively interpreting the private Agreement, a second case was brought by the Community in the Circuit Court to privately enforce the Covenants. Both of those proceedings were occurring at the same time. The effect of both actions was to have the Board of Appeals administratively interpret its Order and what was meant in the Agreement between the two (2) parties, while the Circuit Court focused its attention on the private lawsuit to enforce the Covenants for dollar damages.

Blakehurst Court of Special Appeals

Ultimately, the *Blakehurst* case became a reported Decision of the Maryland Court of Special Appeals at 146 Md. App. 509 (2002), (Appendix F). Judge Sharer, speaking for the Court of Special Appeals reviewed the history of *Blakehurst*, the Restrictive Covenant Agreement entered into between the parties and then analyzed specifically the question of "did the County Board of Appeals exceed its authority by interpreting the Restrictive Covenant Agreement?"

The Court of Special Appeals found that Article 25A, §5U of the Maryland Annotated Code and the Baltimore County Charter, §601 and §602 provided the Board with authority to

pass administrative and adjudicatory orders. The Court of Special Appeals, while recognizing that normally the Board would not have authority to interpret and enforce a private contract such as the Restrictive Covenant in that case, the parties acquiesced to the incorporation of the Agreement into the Board's formal Order and Opinion, thereby providing authority to the Board to review the Agreement. The Court of Special Appeals found that "the Agreement by incorporation into the Consent Order thus ***became a public document as contrasted with a private Agreement***. Having obtained the status of an Order of the Board, it became enforceable by the Board."

The Court of Special Appeals further found that "the use of Restrictive Covenants or conditions to obtain regulatory approval of land and property use is not novel. *Montgomery County v. Mossberg*, 228 Md. 555 (1962).

Finally, the Court of Special Appeals found that deference should be afforded an agency's interpretation of its own prior orders. *Commonnwealth of Pennsylvania v. Surface Transportation Board*, 290 Fed. 3rd, 522 (3rd Circuit – 2002). The Court, stated "we find the logic of those authorities to be persuasive and we hold that deference should be accorded to an administrative agency in the ***interpretation*** of its own previously adopted Orders."

Concurrent Actions

It should also be noted that in Footnote #3, in the Court of Special Appeals Opinion, (Appendix F) the Court addressed the issue of the separate actions by the Community against *Blakehurst* administratively and in the Circuit Court for Baltimore County. The Court recognized that the two (2) separate proceedings could lawfully take place at the same time.

From the Statement of Facts contained herein, it will be recalled that Counsel for BCC acknowledged that the Board could interpret and enforce its own Order but raised however the

question of whether the Community could attempt to enforce the Agreement in both forums. The Court of Special Appeals Footnote #3 specifically answers that question in the affirmative.

Having established that the Board can interpret the 1993 Agreement between the BCC and the Community since it was incorporated in Kotroco's Decision in Case No.: 93-388-X, and further having determined that the Community could concurrently bring action in the Circuit Court as well as this administrative procedure which was done in the *Blakehurst* case, attention then needs to turn to the effect of the 1993 Agreement between the Community and BCC.

1993 Intention of the Parties or What was Bargained For?

The Community believes it has already established it was everyone's clear understanding that nine (9) courts were the ultimate total number of courts to be permitted by the Agreement. The fact is demonstrated by the written terms of the Agreement and the Plans attached thereto, and the interpretation of Mr. Kotroco, the Deputy Zoning Commissioner who sat in Case No.: 93-388-X as well as Case No.: 97-384-SPH. Let us review what the Community gave up to obtain the Agreement limiting the total number of courts to nine (9).

What was lost?

First, in Case No.: 93-37-SPH, the contention before the County Board of Appeals on appeal of that case would have been that the Zoning Commissioner erred by not counting the square footage of the buildings and his decision was in error when one reviews the non-conforming use law of Baltimore County and the BCZR. Had there been no Agreement, that issue would have been fully litigated before the Board and surely a different outcome would have resulted from the CBA applying the BCZR twenty-five percent (25%) expansion rule relative to the non-conforming use issue. Secondly, the Community originally wanted no tennis courts at all in the area next to their properties on Bomont and Mays Chapel Roads and they

permitted by this Agreement, a total of nine (9) courts. The Community compromised in order to get a limitation of nine (9) courts and the proximity and use of the Boyce Property limited. Thirdly, they gave up the right to object to the Special Exception use of three (3) courts on the Boyce Property. In return, the Community felt that it had received assurance from the Club, that there would be no more than nine (9) courts located next to their property and Bomont Road and there were no additional tennis structures to be located in that area.

The Board should require the BCC to comply with its Agreement of 1993 as incorporated as part of the Deputy Zoning Commissioner's Decision in Case No.: 93-388-X based upon the following legal proposition set forth in *Board of Liquor v. Fells Point Café*, 344 Md. 120 (1996). The Court of Appeals in that case found that an applicant for a liquor license, in order to overcome objections and conflict between the neighbors and the previous license holder, entered into an Agreement with the Fells Point Homeowners Association. As the Court says, "in an effort to convince the Fells Point Homeowners' Association (hereinafter referred to "FPHA") not to oppose the transfer of the license, the licensee agrees to have certain conditions placed on their operations that would make the establishment more compatible with neighborhood living." (at page 123). The FPHA did agree not to oppose the transfer and the licensees receive approval. The Liquor Board, in its Order, placed a restriction that incorporated the Agreement with the FPHA. Subsequently, the licensee sought to have the Court determine that it was an illegal or improper limitation which the Liquor Board had no authority to impose on them. The Court addressed the situation where a licensee consents to having a restriction placed upon his or her license. The Court of Appeals explained at page 138, "several cases have explained that it would be ***inequitable*** to allow a party who has accepted and retained the advantages of an Agreement to attack the validity or propriety of the conditions to which the Agreement was subject. If an

applicant accepts a condition, he should not thereafter be in a position to challenge the condition. The Court held that when a licensee agrees to reasonable restrictions in order to obtain a license that clearly would not otherwise be granted, the licensee will be ***estopped*** from later arguing that the Board had no power to place such a restriction on the license."

This is the situation which has occurred here. The Community did not want tennis courts in close proximity to their homes at all in 1993. However, they negotiated an Agreement limiting the total number of courts to nine (9) with no tennis center or buildings proposed in the area. As a result of their entering into the Agreement, their challenge to the legality of the non-conforming use in Case No.: 93-97-SPH was dropped as well as their objection to the Special Exception for the three (3) tennis courts on the Boyce Property in Case No.: 93-388-X. As a result the BCC should be ***estopped*** from reneging on the Agreement and proposing twelve (12) courts. Or, in the alternative, the language of the Court in *Board of Liquor v. Fells Point Café*, it would be ***inequitable*** to permit BCC which has accepted and retained the advantages of an Agreement to then turn around and attack its clear interpretation.

Finally, the case of *Montgomery County, Maryland, et al. v. Mossburg*, 228 Md. 555 (1961), likewise articulates a similar philosophy that where an applicant accepts a limitation or a condition he should not be allowed to attack or challenge that condition subsequently. For the reasons cited herein, the Community requests the County Board of Appeals interpret the Agreement, incorporated in the Deputy Zoning Commissioner's Order, Case No.: 93-388-X and find that the BCC is limited to a maximum of nine (9) tennis courts and no tennis facility and no tennis building. See also *Exxon Company, USA v. State Highway Dept.*, 354 Md. 530 (1999).

2. The BCC non-conforming use and its violation of BCZR §101 and §104.

It is undisputed between the parties that the BCC at Five Farms became non-conforming on September 26, 1963 due to a change in the Zoning Regulations which made a Country Club a Special Exception in the relevant zone. (T3, p. 83). The current zoning for the Club is RC 5, which retains a Special Exception requirement for Country Clubs. (BCZR 1A04.2.B.8). (See also, People's Counsel for Baltimore County Memorandum).

Non-Conforming Use Law in General

A non-conforming use is defined in §101 of the BCZR as "legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective 'non-conformity' is a non-conforming use."

Furthermore, non-conforming uses are governed by §104 of the BCZR. Section 104.1 provides for a continuation of a non-conforming use, except as otherwise specifically provided in these Regulations, provided that upon "...***any change from such non-conforming use to any other use whatsoever***, or any abandonment or discontinuance of such non-conforming use for a period of one year or more, the right to continue or resume such non-conforming use ***shall terminate***." (Emphasis supplied). Furthermore, §104.3 of the BCZR provides that "no non-conforming building or structure and no non-conforming use of a building, structure or parcel of land shall hereafter, be extended more than twenty-five percent (25%) of the ground floor area of the building so used."

Non-conforming uses are not favored by the law, and Maryland Appellate Courts have consistently held that non-conforming uses pose a threat to an orderly zoning scheme and can limit the effectiveness of land use control. See *Prince George's County v. E. L. Gardner*,

293 Md. 259 (1982); *Trip v. Mayor and City Council*, 151 Md. App. 167 (2003). The intent is that they will disappear over time. The expansion of non-conforming use is not permitted. The law is strictly construed in order to eliminate them. In *Gardner*, the Court found that non-conforming uses do limit the effectiveness of land use control, contribute to urban sprawl and peril the success of the Community Plan and injure property values. Baltimore County has legislatively incorporated these principles in BCZR §104.1.

For a general understanding of non-conforming use and the limitations thereon, see *American Law of Zoning*, Chapter 6 entitled "The Creation, Limitation and Termination of Non-conforming Uses." Section 6.01-6.07 provide a background discussion for non-conforming uses and §6.45-6.53 provide for a discussion with regard to the extension of non-conforming uses. Consistent with those discussions, it is clear that while there may be a right to a continuation of a non-conforming use, it does not include a right to extend or enlarge it. This appears to be the rule whether or not the municipal corporation is adopting an ordinance which specifically limits the right for the non-conforming user to enlarge or extend its use. Courts have ruled that expansion of a non-conforming use offends the spirit of Zoning Regulations and the stated purpose of the Regulations to ultimately eliminate the non-conforming use.

A review of *Anderson*, §6.47 discusses unlawful extensions or enlargements of non-conforming uses and in §6.50 *Anderson* comments on the Maryland case of *Phillips v. Zoning Commissioner of Howard County*, 225 Md. 102 (1961).

Furthermore, the cases of *McKinney v. Baltimore County*, 39 Md. App. 257 (1978) and *County Commissioners v. Zent*, 86 Md. App. 745 (1991) discuss non-conforming uses and the question of extension verses intensification. While the courts do allow "intensification" of non-conforming uses, this is a limited allowance. See

Feldstein v. LaVale Zoning Board, 246 Md. 204 (1967). The Court of Appeals warned in *Phillips* against expansion by a kind of "creeping" process. It also observed in *Gardner* that the tacking of a Special Exception onto a non-conforming use tends to result in an unlawful expansion.

Baltimore Country Club Non-Conforming History

The Zoning Record of the BCC property is completely void of any square footage calculations provided by BCC since 1963. A number of facts are clear:

1. The BCC in Case No.: 93-37-SPH failed to provide Commissioner Schmidt the square footage of any of the buildings that became non-conforming since 1963.

2. The Planning Office specifically asked for that information in the 93-37-SPH case. (Community Exhibit #11).

3. The Zoning Commissioner's Decision in Case No.: 93-37-SPH was appealed to the Board of Appeals in which that issue was to be raised on appeal as to the improper interpretation by the Zoning Commissioner. (See Appendix A).

4. That the matter was not then pursued due to the Agreement between the Community and the BCC.

5. That in the instant cases below, the Deputy Zoning Commissioner, in his Opinion and Order, refused to be bound by the logic of the Zoning Commissioner's Decision in Case No.: 93-37-SPH, but found that the twenty-five percent (25%) rule applied to the tennis courts; thus illustrating that he had no faith in the interpretation adopted in Case No.: 93-37-SPH.

6. That People's Counsel in its Memorandum submitted to this Board believes that the Zoning Commissioner Schmidt's conclusion that consideration of buildings and facilities within the Country Club area is irrelevant is an ***incorrect*** statement of the law and should have no bearing on consideration of the current case before this Board. People's Counsel characterized Schmidt's statement as ***dictum***.

7. Likewise, Zoning Commissioner Schmidt's Decision was superseded because of the subsequent compromise Agreement incorporated in the Special Exception approval in Case No.: 93-388-X.

8. The *Gardner* case found that the tacking of a Special Exception onto a non-conforming use tends to result in an unlawful expansion. The Community believes that is precisely what occurred in this instance and that the combination of the Club's Special Exception for the tennis courts on the Boyce Property resulted in an unlawful expansion which terminates the non-conforming use for the Club.

Square Footage Calculations

The Community has been the only party to provide statistics and calculations for the square footage of the buildings as they appeared in 1964 and the present. The Board will recall that Dr. Dow testified that the square footage of the existing buildings in 1964 was 18,714 by her calculations by using the aerial photos and the current 2000 calculations are 32,714 square feet, an expansion of almost twice the original size of the Club in 1964. (T2, p. 111-112).
Jack Dillon also testified about the square footage and the twenty-five percent (25%) rule and through Dillon's calculations, the Club consisted of buildings amounting to 16,400 square feet in 1964 and 37,850 square feet in 2001, more than doubling the size of the Club since it became non-conforming. (T3, p. 118).

The conclusion to be reached therefore since ***these figures were not rebutted*** by the BCC is that the Club since 1964 has almost doubled its size in the square footage of buildings which violates §104.1 and §104.3. This illegal expansion has caused the loss of the non-conforming use status by the BCC and the Board should so find.

An analysis was also done by Jack Dillon regarding the question of whether or not the addition of tennis courts was in fact a ***lawful intensification*** of the Country Club use or was in fact an ***expansion which is illegal*** and which should be denied by this Board. Dillon analyzed cases on the subject of non-conforming uses and concluded the addition of tennis activity to the Five Farms non-conforming use was an illegal expansion. (T3, p. 78-82).

In *Jahnigen v.Stahle*, 245 Md. 130 at p. 138, the Court stated:

> "the right of a landowner and to continue the same kind of use to which the property was devoted on the critical date does not confer on him the right to subsequently change or add to that use a new and different one amounting to a drastic and large ???? extension of the prior existing use. Citing *Phillips v. Zoning Commissioner*.

In *Gardner*, when a sand and gravel operation existed on the property, but the property owner tried to introduce a wet processing facility, the Court of Appeals said the introduction of a wet processing facility changed the non-conforming use and was prohibited."

Jack Dillon, in his testimony to this Board, (T3, p. 78, p. 106) testified that all Country Clubs are not the same just like the Court of Appeals in *Phillips v. Zoning Commissioner* found that all parking lots are not the same. Dillon testified that some Country Clubs consist of just a clubhouse, some have a clubhouse with golf course, some have a clubhouse with golf, swimming and tennis and some just have swimming and tennis. The use by the BCC at the Five Farms site in Baltimore County never consisted of tennis in that that function was performed in Baltimore City. Dillon testified in his opinion, the request to add a tennis facility was not an

intensification of an existing use (for example, by adding more courts to those existing), but an introduction of an entirely new different use as discussed in *Gardner* and was therefore an illegal expansion. The Board should keep in mind that there have never been tennis courts ***and there are none presently on the BCC property***. With that as the current situation, Dillon also opined that in the present case the Deputy Zoning Commissioner erred by applying the twenty-five percent (25%) rule by allowing one additional court for a total of ten (10) because there are presently no tennis courts on the property at all. This begs the question as to how could the Deputy Zoning Commissioner permit the expansion of the number of tennis courts as part of a non-conforming use that does not now or ever existed on the property. The Community submits that the Board cannot.

In summary then, in regard to the non-conforming use of the BCC, the Community submits that the non-conforming use has been lost by the Club by its obtaining its Special Exception for a portion of property as per the *Gardner* case. Second, that the request for tennis courts is an addition of a new use (an illegal expansion) and is not permitted in accordance with *Gardner*. Third, that the non-conforming use has been lost by the expansion of the Club between 1964 and 2000 as shown by the unrebutted calculations of Dr. Dow and Jack Dillon and finally that this Board should find that any non-conforming use established in Case No.: 93-37-SPH has been lost by the aforementioned incidents and that BCC if it wishes to remain on the site must seek a Special Exception for its property other than the Boyce Property.

3. BCC needs to comply with 100 foot setback requirement imposed by BCZR, §406A.3.

The BCC needs to comply with the 100 foot setback requirement imposed by the BCZR, §406A.3.

The BCZR, §406A entitled "Tennis Facilities," subsection 4068.3 states as follows:

> "Site area distance to residential site boundaries. The area of the site of any tennis facility shall be at least 15,000 square feet per court. No tennis facility shall be established within 100 feet of any site boundary line of an RC or a DR zoned property, and no variance in the requirements may be granted under the provisions of §307 of these Regulations."

Dr. Dow and Mr. Spies testified that the corner of tennis courts #8 and #9 were clearly within 100 feet of the Spies RC zoned property line. On cross-examination, the Club's engineer Mr. Fisher likewise measured the distance between the corner of the tennis court facility for court #8 and the Spies property line and found it to be less than 100 feet.

The Board should find that the proposed Site Plan for BCC is in violation of the BCZR in this respect and DENY approval.

4. The CBA should DENY the BCC's Special Hearing request for twelve (12) courts at a tennis center.

The CBA should DENY the BCC's Special Hearing Request for twelve (12) courts.

This Board should enforce the Agreement entered into between the Community and the BCC; if it does not, it should find that the Club has lost its non-conforming use and requires a Special Exception hearing for the entire property of the Club. If the Board fails to either of the first two (2) remedies, it should simply deny the BCC, its Special Hearing request for twelve (12) courts since there has been no change in condition since 1993. See, *Whittle v. Board of Zoning Appeals*, 211 Md. 36 (1956).

502.1 Standard

The standard that the Board should utilize to determine whether or not to grant the extension of nine (9) tennis courts to twelve (12) should be based on the BCZR, §502.1 which sets forth the criteria necessary to be established before granting approval. In this case, the

Community suggests that they have provided testimony through Dr. Dow, Mr. Spies, Mr. Tubman, Mrs. Terry, Mr. Toland and Mr. Bowers that the granting of the additional three (3) courts would be detrimental to the health, safety and general welfare of the neighborhood. It would tend to overcrowd the land and cause undue concentration of the Club's membership on twelve (12) courts immediately adjacent to the members of the Community. The additional courts would interfere with the general welfare of the Community by impacting them with noise and further is inconsistent with the impermeable surface and vegetative retention provisions of the Zoning Regulations. It would also be detrimental to the environment and natural resources of the site and vicinity due to the testimony of Mr. Keith Bowers, a noted environmentalist and teacher who testified as to not only the present but the future detriment to the stream which flows from the BCC's site through the properties of the Community members and into the Jones Falls. The environmental problems created by the BCC have already impacted the Community by the incident causing damage to Bomont Road in 1996 and other prior incidents. Storm water impact on the Community is still taking place today.

The Special Hearing request by the BCC here amounts to a request for a Special Exception. The rules apply to the granting of a Special Exception are well-known to this Board.

Shultz v. Pritts Standard

In *Board of County Commissioners v. Holbrook*, 314 Md. 210, at page 217 (1988), Judge Harry Cole summarized the *Schultz v. Pritts* test in part, with this key point:

> "...where the facts and circumstances indicate the particular Special Exception use and location proposed would cause an adverse effect upon adjoining and surrounding properties unique and different, in kind or degree, then that inherently associated with such a use with such a location within the zone, the application should be denied."

In *Holbrook*, a mobile home was visible to a resident 80 to 150 feet away, where there were no trees or topography to interrupt the line of sight. This contrasted with "countless locations ... within the zone" which would not present such a problem of proximity and visibility. For this reason alone, the Special Exception was properly denied by the Board and affirmed by the Court of Appeals.

As Judge Glenn Harrell reminded us in *Sharp v. Howard County Board of Appeals*, 98 Md. App. 57, 85 (1993),

> "the duties given the Board are to judge whether the ***neighboring properties in the general neighborhood would be adversely affected*** and whether the use in the particular cases in harmony with the general purpose and intent of the Plan." Citing *Shultz*.

In *People's Counsel v. Mangione*, 85 Md. App. 738 (1991), the Court of Special Appeals sustained this Board's denial of a convalescent home in a residential zone based on a particular problem, particular sight problems above the norm for residentially zoned property. The location was off the main road and had poor access on narrow winding streets where children played. It would block out light from the west and exacerbate both drainage and erosion problems. *Mangione* shows that the proposed use need not give rise to a worst case scenario, or mathematical demonstration to warrant denial.

The Community submits that under *Schultz*, *Mangione* and *Holbrook*, this Board should deny the granting of the additional courts requested by the BCC on the basis that the impact of such courts is unique to this site, based upon the topography presented, the close proximity to the neighbors homes, the large amount of land available to the Club (over 400 acres) to conduct such activities. The demonstrated storm water impacts from two (2) drainage swales which combine to form one drainage swale under the privately owned road – Bomont Road and across the

Community members properties are sufficient facts to find that the impacts at this site would be greater than those inherently associated with the tennis court operation elsewhere.

In summary therefore, under this Argument, the Community respectfully requests the Board to deny the addition of the three (3) tennis courts requested in the BCC Special Hearing request.

CONCLUSION

In conclusion, the Community respectfully requests the Board as follows:

1. Enforce the Agreement entered into between the Community and the BCC in 1993 and permit only nine (9) courts on the subject site. (The legal support therefore was provided by the *Blakehurst* case and see *People's Counsel Memorandum.*

2. The Community requests that the Board find as a matter of fact and law that the Club has illegally expanded beyond the twenty-five percent (25%) rule permitted by the BCZR §104 and therefore find that the non-conforming use has been lost and require, for the Club's continued existence, a Petition for Special Exception to be filed by the Club to legitimize its present use of the property.

3. If the Board allows the continued non-conforming use, it is essential that the Board establish the baseline in 1963 against which to measure expansion. The Community would request that they establish how much the allowed twenty-five percent (25%) expansion has been utilized to date and how to measure it.

4. The Community suggests that reopening the discussion of non-conforming use is not *res judicata* due to the fact that the current plan is ***different and larger*** than the one presented in 1993 for Case No.: 93-37-SPH.

5. The Community requests the Board to deny the Special Hearing Request for the three (3) additional Courts and require adherence to the Club's original plan.

6. The Board should require that the nine (9) courts be placed in the area of the existing rectangular parking lot to minimize impact on neighboring properties.

7. The Board should require the placement of the sound barrier wall which was part of the Agreement between the parties and had been specifically requested by the Community.

8. The Board should require compliance by the BCC with the 2000 Storm Water Management Regulations which were not applied in the instant case.

9. The Board should require, pursuant to the Agreement, that maintenance of the courts will occur during the regular hours of operation of the courts.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Community Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of September, 2005, a copy of the foregoing Memorandum of "Community" Petitioners in Lieu of Final Argument Before the Board was mailed first class, postage pre-paid to the following: G. Scott Barhight, Esquire, Jennifer R. Busse, Esquire, Whiteford, Taylor & Preston, LLP, 210 West Pennsylvania Avenue, Suite 400, Towson, Maryland 21204 and Peter Max Zimmerman, Esquire, People's Counsel for

Baltimore County, Old Courthouse, Room 47, 400 Washington Avenue, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

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PROTESTANTS'/

PETITIONERS'

APPENDIX

Filed 12/10/92

IN RE: PETITION FOR	*	BEFORE THE
SPECIAL HEARING	*	ZONING COMMISSIONER
THE BALTIMORE COUNTRY CLUB	*	OF
AT FIVE FARMS	*	BALTIMORE COUNTRY
ITEM #40 9th Election District	*	Case No.: 93-37-A
	*	

* * * * * * * * * * * * *

PROTESTANT'S MEMORANDUM
IN LIEU OF FINAL ARGUMENT

Protestants, Joseph R. B. Tubman, Donna Dow and Deborah Terry, by **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, hereby submit this Memorandum in Lieu of Final Argument on the above captioned case. The Protestants Tubman, Terry and Dow, (hereinafter "Protestants") along with other witnesses who testified before the Zoning Commissioner, are residents of the immediate area and in most cases, property owners adjacent and adjoining the Baltimore Country Club at Five Farms.

I. Facts

The Baltimore Country Club at Five Farms is requesting a verification of a non-conforming use as a Country Club and golf course. The Club is currently improved with a clubhouse, two 18 hole golf courses, practice range, swimming pools, rain shelters, comfort stations, maintenance buildings and staff residence. The Club is requesting permission to construct nine (9) additional tennis courts and to relocate the existing parking area and to provide for improvements to the pool area

LAW OFFICES
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Appendix A

11/10/92 fx

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 28, 1992

FROM: Ervin Mc Daniel, Chief
Office of Planning and Zoning
Development Review Section

RECEIVED
NOV - 2 1992
ZONING COMMISSIONER

SUBJECT: Addendum to Item No. 40

Supplemental Comments:

The Baltimore County Club at Five Farms is requesting a verification of an alleged non conforming use of a Country Club and golf course. The club is currently improved with a club house, two 18-hole golf courses, practice range, swimming pool, rain shelters, comfort stations, maintainence buildings and staff residences. Section 104 of BCZR states "no non conforming building or structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used the petitioner must provide an outline of all parcels owned by the club and when they were acquired. We are aware that parcel 73 on Tax Map 60 was recently purchased by the club and should not be included as part of the non-conforming use of the club. The petitioner may wish to amend the petition for a Special Exception to cover this property, as well as, any others which have not historically been part of the club. Also, a time line showing the dates of construction and size of all buildings on the site in order to determine the amount of expansion left under the 25% rule should be provided.

The community has raised significant concerns regarding runoff, erosion and periodic flooding in the area. These concerns must be addressed as a part of any approval for expansion of these facilities.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: Francis Morsey

Division Chief: Ervin McDaniel

EMcD/FM:rdn

40ADDEM.FM/ZAC1

Comm #11

Appendix B

IN RE: PETITION FOR SPECIAL HEARING 11500 Mays Chapel Road 8th Election District 2nd Councilmanic District	*	BEFORE THE DEPUTY ZONING COMMISSIONER
Deborah Terry, et al. Petitioners (referred to herein as "Community")	*	OF BALTIMORE COUNTY
Baltimore Country Club of Baltimore City, Legal Owners and Petitioner (referred herein as "BCC")	*	Case Nos.: 04-508-SPH (filed by D. Terry, et al.) 04-600-SPH (filed by BCC)

* * * * * * * * * * * * *

COMMUNITY MEMORANDUM IN OPPOSITION
TO THE MOTION OF BALTIMORE COUNTRY CLUB

Deborah Terry, et al., hereinafter referred to as the "Community" by and through its attorney, ***J. Carroll Holzer***, Holzer & Lee, submits this Memorandum in Opposition to the Motion of Baltimore Country Club and says:

Procedural and Factual Background

At the Deputy Zoning Commissioner hearing which began on July 15, 2004, the Deputy Zoning Commissioner heard testimony from Dr.. Donna Dow concerning the procedural and factual background involved in the multiple cases between the Community and the Baltimore Country Club.

Additionally, multiple exhibits were submitted which trace the entire zoning history of this case, and as a result, this Memorandum will not purport to address all of the zoning history, but will focus on the limited issue at hand.

Appendix C

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Mays Chapel & Bormont Roads,
SW/S Mays Chapel Road, 361' SE * DEPUTY ZONING COMMISSIONER
of Chapel Ridge Road
(11500 Mays Chapel Road) * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 97-384-SPH

Baltimore Country Club of *
Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners, through their attorneys, J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners seek a determination relative to seven issues raised within the Petition for Special Hearing as to whether the Owner of the subject property has forfeited the relief granted in prior Case No. 93-388-X and/or whether there has been any violation of the relief granted in prior Cases Nos. 93-388-X and 93-37-SPH, and provisions for the proper enforcement thereof. In addition, the Petitioners seek a determination as to whether there has been any violation or noncompliance with any zoning regulation, and/or proper interpretation thereof, with respect to the use of the subject property, by the Baltimore Country Club, hereinafter referred to as B.C.C. or "Club". The relief requested is more specifically set forth within the Petition for Special Hearing filed in March 1997, and as amended in July 1997.

As indicated above, this matter was originally scheduled for a public hearing on May 28, 1997, but was subsequently postponed so that the

Appendix D

IN THE MATTER OF	*	BEFORE THE
BLAKEHURST LIFE CARE COMMUNITY / THE CHESTNUT PARTNERSHIP -DEVELOPER* 9TH ELECTION DISTRICT 4TH COUNCILMANIC DISTRICT	*	COUNTY BOARD OF APPEALS OF
RE: DRC NO. 11019G /File No. IX-522 -- REFINEMENT UNDER 26-211 BCC AND APPROVED 4TH REFINEMENT TO CRG PLAN	*	BALTIMORE COUNTY Case No. CBA-99-152 AND Case No. CBA-99-159

* * * * * * * * * * *

MAJORITY OPINION

This case comes to the Board of Appeals based on an appeal from a decision of the Director of the Baltimore County Department of Permits and Development Management, hereinafter "DPDM," dated November 8, 1999, that, pursuant to the recommendation of the Development Review Committee (DRC), the Applicant's proposed project satisfied the requirements of a refinement to an approved CRG Plan subject to *Baltimore County Code* (BCC) § 26-211. The CRG Plan approval was executed by the Baltimore County Department of Public Works on November 11, 1999 and by the Office of Planning & Zoning on November 19, 1999. Because of the issue of "final approval," the Appellants filed two separate appeals involving the same issues resulting in Case No. CBA-99-152 and Case No. CBA-99-159. The Board heard the case on May 30, 2000.

The Developer was represented by Robert A. Hoffman, Esquire. The Appellants /Protestants were represented by J. Carroll Holzer, Esquire. Chestnut Partnership had sought an amendment to the CRG Plan for the Blakehurst Life Care Community. A large number of residents residing at the Community were present for the hearing. Mr. Hoffman opened the proceeding by placing into the record a copy of the approved CRG Plan, and describing the site in general fashion. The major thrust of the Developer's case would be to establish that the Development Review Committee (DRC) appropriately determined the requested changes would be considered "refinements." These types of changes, minor in nature, do not require a full CRG

(App E)

REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1591

September Term, 2001

BLAKEHURST LIFE CARE COMMUNITY/THE CHESTNUT REAL ESTATE PARTNERSHIP

v.

BALTIMORE COUNTY, MARYLAND, et al

Salmon,
Sharer,
Moylan, Charles E., Jr.,
(Retired, Specially Assigned)

JJ.

Opinion by Sharer, J.

Filed: September 10, 2002

Appendix F

9/30/05

RE:	PETITION FOR SPECIAL HEARING & DEPRM VARIANCE 11500 Mays Chapel Road; N/side of Bomont Rd at intersection with Mays Chapel Road 8th Election & 2nd Councilmanic Districts Legal Owner(s): Baltimore Country Club of Baltimore City Petitioner(s)	*	BEFORE THE COUNTY BOARD OF APPEALS FOR BALTIMORE COUNTY 04-508-SPH & 04-600-SPH & CBA-05-113

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BALTIMORE COUNTY
BOARD OF APPEALS

* * * * * * * * * * * * *

MEMORANDUM OF PEOPLE'S COUNSEL FOR BALTIMORE COUNTY

Introduction

Upon review of the record, inquiry from citizens, and perusal of the memorandum filed by the Baltimore Country Club, People's Counsel submits this memorandum pursuant to its function to defend the comprehensive zoning maps. Baltimore County Charter Sec. 524.1; People's Counsel v. Williams 45 Md. 617 (1980); People's Counsel v. Webster 65 Md. App. 686 (1986); People's Counsel v. Maryland Marine Mfg. Co. 316 Md. 491 (1989); People's Counsel v. Mangione 85 Md. App. 738 (1991); People's Counsel v. Crown Dev. Corp. 328 Md. 303 (1992); Sycamore Realty Co. v. People's Counsel 344 Md. 57 (1996); Umereley v. People's Counsel 108 Md. App. 497 (1996); Riffin v. People's Counsel 137 Md. App. 90 (2001); People's Counsel v. Country Ridge Shopping Center 144 Md. App. 580 (2002); Lucas v. People's Counsel 147 Md. App. (2002); Antwerpen v. Baltimore County 163 Md. App. 194 (2005).

The Baltimore County Club property is located on Mays Chapel Road in the Timonium area of northern Baltimore County. The current zoning classification is R.C. 5 (Rural-Residential). In the R.C. 5 zone, a country club is allowed by special exception.

There has never been a special exception approved for the main 400-acre "Five Farms" tract of the country club property. Rather, BCC has claimed nonconforming use status. In the

present cases, questions arise as to the legitimacy this nonconforming use status and the appropriateness of proposed changes.

BCC purchased an adjacent 2.6 acres, the "Boyce Parcel" or "Parcel A" and another 1.2 acres, "the Merrick Parcel", or Parcel B. Here, these were not part of any nonconforming use. BCC petitioned for a special exception for these parcels in 1993. This triggered a complex history, including cases in 1993 and 1997. The most significant aspect of this history is a compromise agreement, which became enshrined in the June 23, 1993 Order in Case 93-388-X. (Community Exh. 5A, 5B). In the present case, questions arise as to the legal significance of the 1993 Order and the propriety of any proposed change to that order. There are also sharply put questions as to whether the uses approved in the 1993 Order were utilized properly, and, if not, whether the approved nonconforming use and special exception are still valid.

The present cases come before the County Board of Appeals (CBA) as a *de novo* hearing. Pollards's Towing v. Berman's Body Frame & Mechanical 137 Md. App. 277 (2001) reiterates that a *de novo* CBA case under Charter Sec. 603 is tried anew, as if there were no decision below. Therefore, the pertinent record includes the testimony and exhibits presented to this CBA.

There should not be any dispute that the original baseline for measurement of the nonconforming Five Farms use at issue would ordinarily be no later than 1963. The property was then evidently zoned residential. This predated the enactment of the rural zones. Bill 64, 1963 (Exhibit A) identified golf courses, including country clubs, as special exceptions in various "R" Residential zones. Bill 64 included BCZR 270, the chart still found in the current regulations. Remarkably, when Bill 100, 1970 (Exhibit B) replaced the "R" Zones with the modern Density Residential (D.R.) Zones, there was no allowance for country club uses in those zones. BCZR 1B01.1. Bill 100 did, however, establish the new rural R.D.P. (Rural Deferred Planning) and R.S.C. (Rural Suburban Conservation) zones, which allowed golf courses and country clubs as

special exception uses. BCZR 1A00.2.B.10, 1A01.2.B.10. In 1975, the County Council enacted Bill 98-75. This carried forward the special exception for country club use in the Resource Conservation zones, including the R.C. 5 zone here. BCZR 1A04.2.B.8. (Exhibit C).

In 1993, the Club obtained a special exception on the Boyce (Parcel A) property in Case 93-388-X. This approval, however, incorporated an agreement between the Club and members of the community, which governed both parts of the property, and thus the nonconforming use as well as the special exception. This agreement plays a significant role in this case, and will be the subject of further discussion.

It now appears that the Club desires approval of a modification to the plan approved in 1993 and believes that it is authorized or consistent with the previous approval. Some members of the community disagree, and have challenged the latest proposed changes.

Question Presented

The parties have listed numerous questions in their dueling petitions. It appears that many of them are controlled or determined by the answer to the following core question:

> Is there any legal justification for any proposed change from the specific land uses and locations (including tennis courts, buildings, parking areas, or any other items) approved in the special exception/nonconforming use Order in Case 93-388-X, incorporating a June 15, 1993 agreement between the parties?

Nonconforming Use Law

We identify here some relevant definitions and principles of nonconforming use law.

A nonconforming use is defined in BCZR 101 essentially as:

> "... a legal use which does not conform to the use regulation for the zone in which it is located ...."

As a practical matter, a nonconforming use is a use legally in existence at the time a law is passed which otherwise would prohibit the use.

The key provision with respect to change and termination of nonconforming uses is BCZR 104.1:

> "A nonconforming use(as defined in Section 101) may continue except as otherwise specifically provided in these regulations, provided that **upon any change from such nonconforming use to any other use whatsoever**, or any abandonment or discontinuance of such nonconforming use for a period of one year or more, **the right to continue or resume such nonconforming use shall terminate**." **[Bill Nos. 18-76; 124-1991]** (Emphasis supplied).

BCZR 104.2 provides a limited allowance for restoration of damaged structures involved in nonconforming uses:

> "**A structure damaged to any extent or destroyed by fire or other casualty may be restored within two years after such destruction or damage but may not be enlarged**. In the case of residentially used structures which are nonconforming in density, the number of dwelling units or density units rebuilt may be equal to but may not exceed the number of units which existed before the casualty." **[Bill 124-1991]** (Emphasis supplied).

BCZR 104.3 follows with an allowance for a limited expansion of nonconforming buildings or structures associated with the uses:

> "No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used. This provision does not apply to structures restored pursuant to Section 104.2, except as authorized by the Zoning Commissioner pursuant to Section 307. [Bill No. 167-80; Bill 124-1991] (Emphasis supplied).

These BCZR are consistent with classic zoning law generally. The law does not favor nonconforming uses. The legislative intent is that they will disappear over time. The expansion of a nonconforming use is impermissible. The law is strictly construed in order to effectuate the purpose of eliminating nonconforming uses. The Court of Appeals explained these principles in County Council for Prince George's County v. Gardner 293 Md. 259 (1992), (Exhibit D):

> "This Court has repeatedly recognized that one of the fundamental problems of zoning is the inability to eliminate incompatible nonconforming land uses. In *Grant v. Mayor and City Council of Baltimore,* 212 Md. 301, 307, 129 A.2d 363, 365 (1957), this Court said:

"Nonconforming uses have been a problem since the inception of zoning. Originally they were not regarded as serious handicaps to its effective operation; it was felt they would be few and likely to be eliminated by the passage of time and restrictions on their expansion. For these reasons and because it was thought that to require immediate cessation would be harsh and unreasonable, a deprivation of rights in property out of proportion to the public benefits to be obtained and, so, unconstitutional, and finally a red flag to property owners at a time when strong opposition might have jeopardized the chance of any zoning, most, if not all, zoning ordinances provided that lawful uses existing on the effective date of the law could continue although such uses could not thereafter be begun. Nevertheless, the earnest aim and ultimate purpose of zoning was and is to reduce nonconformance to conformance as speedily as possible with due regard to the legitimate interests of all concerned, and the ordinances forbid or limit expansion of nonconforming uses and forfeit the right to them upon abandonment of the use or the destruction of the improvements housing the use."

Thus, this Court has recognized that the problem inherent in accommodating existing vested rights in incompatible land uses with the future planned development of a community is ordinarily resolved, under local ordinances, by permitting existing uses to continue as nonconforming uses subject to various limitations upon the right to change, expand, alter, repair, restore, or recommence after abandonment. Moreover, this Court has further recognized that the purpose of such restrictions is to achieve the ultimate elimination of nonconforming uses through economic attrition and physical obsolescence. *The Arundel Corp. v. Board of Zoning Appeals of Howard County,* 255 Md. 78, 83-4, 257 A.2d 142, 146 (1969); *Stieff v. Collins,* 237 Md. 601, 604, 207 A.2d 489, 491 (1965); *Colati v. Jirout,* 186 Md. 652, 655, 657, 47 A.2d 613, 614-15 (1946); *Beyer v. Mayor of Baltimore,* 182 Md. 444, 446, 34 A.2d 765, 766 (1943); *See Kastendike v. Baltimore Ass'n for Retarded Children, Inc.,* 267 Md. 389, 397, 297 A.2d 745, 749-50 (1972).

Whether a nonconforming use can be changed, extended, enlarged, altered, repaired, restored, or recommenced after abandonment ordinarily is governed by the provisions of the applicable local ordinances and regulations. ***Feldstein v. La Vale Zoning Board,*** 246 Md. 204, 211, 227 A.2d 731, 734 (1967); ***Phillips v. Zoning Comm'r of Howard County,*** 225 Md. 102, 109, 169 A.2d 410, 413 (1961); ***Board of Zoning Appeals of Baltimore County v. Gue,*** 217 Md. 16, 21-22, 141 A.2d 510, 513 (1958). These local ordinances and regulations must be strictly construed in order to effectuate the purpose of eliminating nonconforming uses. ***Mayor of Baltimore v. Byrd,*** 191 Md. 632, 638, 62 A.2d 588, 591 (1948); *Colati,* 186 Md. at 658-59, 47 A.2d at 616; ***Knox v. Mayor of Baltimore,*** 180 Md. 88, 96, 23 A.2d 15, 18 (1941); ***see City of Hagerstown v. Wood,*** 257 Md. 558, 563, 263 A.2d 532, 534 (1970); ***Hewitt v. County Comm'rs of Baltimore County,*** 220 Md. 48, 59, 151 A.2d 144, 150 (1959)."

BCZR 104.1 legislatively incorporates these principles. The use terminates upon any change of use, or any abandonment or discontinuance for a period of one year or more.

At the outset, we underline that the interrelated provisions of BCZR 104 reflect that the scope of a nonconforming use includes the buildings associated with that use. This is common sense and reflects the national understanding and implementation of this field of zoning law. In Anderson, American Law of Zoning 4th (1996), Chapter 6, "The Creation, Limitation, and Termination of Nonconforming Uses," includes in Subsection C.3 a detailed discussion of unlawful extensions of such uses. Sections 6.46, 6.47, and 6.48 address, respectively, "Enlargement, replacement or alteration of building;" "Addition or expansion of facilities:" and "Extension to new parts of a building." In this context, Section 6.39, pertaining to "Change in location of use" encompasses relocation of buildings. Accordingly, the scope of our discussion of nonconforming uses necessarily includes buildings, structures, and other elements related to the use. Nonconforming use law is not subject to narrow, cramped, and artificial distinctions made to perpetuate and extend the life of uses destined to disappear.

In evaluating the issue of expansion, it is thus relevant to consider expansion in land area, buildings, and facilities. The Maryland cases also reflect this understanding. Chayt v. Zoning Appeals Board 177 Md. 426 (1939); Knox v. Mayor & City Council 180 Md. 88 (1941); Colati v. Jirout 186 Md. 652 (1946); Cleland v. Mayor & City Council 198 Md. 440 (1951); Fritze v. City of Baltimore 202 Md. 265 (1953); Shannahan v. Ringgold 212 Md. 481 (1957); Boulevard Scrap Co. v. City of Baltimore 213 Md. 6 (1957); Phillips v. Zoning Commissioner 225 Md. 102 (1961); Jahnigen v. Staley 245 Md. 130 (1967).

The courts do allow "intensification" of nonconforming uses; but this is a limited allowance, the scope of which must not be exaggerated. See Feldstein v. LaVale Zoning Board 246 Md. 204 (1967), distinguishing the lawful increase in height and volume of scrap metal

stored in the same area from cases involving the unlawful "extensions by the erection of new and different buildings expressly prohibited by the zoning ordinance ...."

The Maryland courts have not adopted or allowed "natural expansion" theory or doctrine. Rather, the Court of Appeals has warned in Phillips against expansion by a kind of "creeping process." It also observed in Gardner that the tacking of a special exception onto a nonconforming use tends to result in an unlawful expansion.

Discussion of the Zoning Commissioner's Decision in Case 93-37-SPH

There has been much debate about the impact of Zoning Commissioner Lawrence Schmidt's initial Five Farms decision in Case 93-37-SPH, especially insofar as it says that consideration of buildings and facilities within the country club area is irrelevant. This is not a correct statement of the law. It should have no bearing on consideration of the current proposal, which is different and comes twelve years later. It appears, in any event, that Commissioner Schmidt's statement was *dictum*, limited to the proposal then under consideration, and superseded because of the subsequent compromise agreement incorporated in the special exception approval.

The 1993 Compromise and Order

The County Board of Appeals' June 23, 1993 approval of the compromise in Case No. 93-388-X is at the core of this case. It is complicated because it combines elements of the nonconforming use on the Five Farm 400 acres and the special exception for the Boyce and Merrick parcels.

There are issues presented now as to proposed changes to this compromise. There are also issues presented as to violation of the compromise. To understand these issues, it is first necessary to consider the meaning and significance of the agreement at the time it was made.

Had the case been litigated in 1993, the proper ruling would have been that the special exception effectively changed the nonconforming use and terminated it under BCZR 104.1. The situation was similar in this respect to that in the Gardner case. It also appears that there likely was proof that the use had expanded, and that the buildings had expanded more than the allowed 25% between 1963 and 1993.

Nevertheless, the Baltimore Country Club and the concerned citizens made a practical decision to agree to a compromise. The compromise gave the Country Club limited leeway to provide new tennis courts and facilities in specified numbers and locations. At the same time, it provided certain protections to the nearby residential property owners.

The compromise was incorporated in the Order in Case No. 93-388-X. Comm. Exh. 5A, 5B. There were no appeals. The decision became final. It is enforceable now whether or not it would have been legally sustainable if litigated at the time. Board of Liquor License Comm'rs v. Fells Point Café 344 Md. 120 (1996); Exxon Company, U.S.A. v. State Highway Department 354 Md. 530 (1999).

In sum, the June 23, 1993 Order approved a limited special exception on the Boyce and Merrick parcels, and left standing the nonconforming use approved by the Zoning Commissioner, subject, however, to all of the conditions set forth in the June 14, 1993 Agreement incorporated in the Order.

The 1993 Order Approved a Special Exception and a Limitation of the Nonconforming Use

The 1993 compromise did not set a new baseline for the nonconforming use. That baseline remained 1963. Rather, it represented, taken in the light most favorable to the country club, the limit of what could be allowed as a combination of a special exception and a limited expansion of the original nonconforming use, subject to the June 14, 1993 Agreement which

governed both the old and newly acquired segments of BCC property. Any further addition would be a change and expansion under the Gardner principles, and would not be permissible.

Argument

There is No Legal Justification to Modify the June 23, 1993 CBA Zoning Order

Even if there were no nonconforming use issues, it would not be permissible to modify a determination in a contested case, absent a relevant change in circumstances in the neighborhood. Whittle v. Board of Zoning Appeals 211 Md. 36 (1956); Woodlawn Area Citizens Assoc. 241 Md. 187 (1966). The CBA has recognized that it is important to respect the integrity of such resolutions. In the Matter of Oregon, LLC, Case No. 02-461-SPHXA. (Exhibit E, excerpt) ; Bonner-Joppa, LLC, Case No. 04-127-SPH (Exhibit F), Milford Manor, Gary Raffel, Case No. 04-315-SPHA (Exhibit G).

The Oregon, LLC opinion by Chairman Wescott and Board members Marks and Crizer resonates with these apt observations, at pages 21-22:

> "While the Petitioner is certainly entitled to file his requested changes to the original 1995 Board's Order, in the form of a special hearing, special exception, or variance request, it is the responsibility of this Board not to disturb the original Board's order simply to accommodate the desires of the Petitioner in response to the increased popularity and prestige of his establishment. The original Board heard testimony and received testimony on Mr. Bauer's desire to rehabilitate and renovate the old building, in an historic district, in highly protected R.C. 4 zone. He was aware of the limitations on the reconstructed building and its use under the BCZR
>
> * * *
>
> "In reading the original 1995 Board Order, that Board recognized the limitations imposed upon Mr. Bauer and accepted by him relative to those limits imposed on the use of the building and grounds, along with the variance request. There was no appeal from the decision of the Board.
>
> "It strikes the Board that what the Petitioner now seeks is a 'second bite of the apple,' to do exactly what he agreed not to do in 1995. This Board, having heard considerable testimony and receiving evidence has not determined that any significant changes have occurred in the R.C.4 zone that would call for this Board to disturb the original 1995 decision. The many witnesses called by the Petitioner in support of the proposed changes did not offer sufficient or compelling testimony or evidence to convince this Board that their support was but self-serving to serve the interests of the Petitioner.

"The Board concurs with the Protestant that the same issues addressed here could have easily been addressed on appeal. The decision rendered by the earlier Board applies 'not only to the issues expressly decided in the prior case between the same parties, but to every matter which might have been presented in that prior case,' recalling that in that case Baltimore county and Oregon Grille were both the Petitioners. This Board agrees with the position of the Protestants that nothing has changed significantly since the original Board's decision was made and that decision was not 'the product of fraud, surprise, mistake, or inadvertence. *Racine*, 24 Md. App. at 449, *Woodlawn,* 241 Md. at 197."

Similarly, there is no evidence here that the rural-residential neighborhood in the R.C. 5 Zone has changed significantly or in any way so as to support an argument for expansion of the club. There is evidence, moreover, that many neighbors have placed parts of their properties in trust for conservation. This reflects, in part, their reliance, in part, on the integrity of their Agreement with BCC. It is yet another factor which weighs against any alteration of the 1993 Order.

The January 27, 2005 Bonner-Joppa opinion signed by Board members Brassil and Crizer is also revealing. It stated, at pages 9-10:

"In granting the special exception in 1975, and in amending and modifying that special exception subsequently, the zoning commissioners placed certain restrictions on the property in order to address the requirements of BCZR 502.1. Without these conditions, particularly the ten placed on the property in 2001, the special exception and subsequent amendments might not have been granted. The relevant portions of BCZR 502.1 state:

"Before any Special Exception may be granted, it must appear that the use for which the Special Exception is requested will not:

A. Be detrimental to the health, safety, or general welfare of the locality involved;
B. Tend to create congestion in roads, streets, or alleys therein;
C. Create a potential hazard from fire, panic, or other dangers.

"Based upon the testimony, which indicated that there was already congestion caused by vehicles awaiting repair parked on the public streets --- contrary to Restriction #5 --- and since a towing operation would potentially only increase the vehicles brought to the site, the Board finds that the proposed use would be detrimental to the health, safety or general welfare of the locality and would tend to create congestion in the roads, streets, or alley therein. The Board voted unanimously against amending the restrictions.

> **"Further, this Board is concerned with the precedent that would be set if an agreement between a community and a business were set aside only 2 years of being reached. The community acted in good faith in not opposing Mr. Bonner's original petition in 2001 because he agreed to the ten conditions they requested. The communities should not have to fight the same battle every two years."** (Emphasis supplied).

While the time period in the present case is longer, the same principles apply. BCC and the citizens worked out a detailed agreement in 1993. It became part of a comprehensive order. In the absence of this agreement, BCC might not (indeed, probably should not) have obtained nonconforming use recognition. BCC's present attempt to go beyond the four corners of the 1993 agreement is overreaching and amounts to an abuse of the process.

The CBA backed up Bonner-Joppa with this emphasis in its June 30, 2005 opinion by Board members Stahl (Chairman) and Wescott and Crizer in the Milford Manor case at page 3:

> **"This Board hold Orders with restrictions on specific properties as a major determining factor when deliberating cases. These conditions and restrictions are meant to protect both sides of a concerned piece of property.** However, this Board also realizes that neighborhoods change and sometimes there is a need to rewrite or remover certain terms and conditions. At this time, the Board feels that the community of Colonial Village has not changed much since its development in the 1940s. While the area surrounding the Colonial Village community is continually changing with commercial and industrial zoning, the 300 plus homes that make up Colonial Village have maintained this development as a healthy residential community which make it one of Baltimore County's many unique neighborhoods." (Emphasis supplied).

Analogously, the residential neighborhood adjoining the Baltimore County Club has maintained itself as a healthy residential community for many years, including the dozen years since the June 14, 1993 Agreement. Indeed, that agreement has been a contributing factor to the stability of the community and the enjoyment of its residents.

In the present case, there is an another reason why the BCC proposal conflicts with the law. The expansion and relocation of tennis courts, buildings, and other facilities constitutes a change and impermissible extension under the law of nonconforming uses. It cannot be justified as a "natural expansion." This is a euphemism for change which Maryland law does not

recognize or accept. The change with respect to buildings, moreover, must be considered and accounted for in the legal analysis. The proposed changes here are at least on the scale of the changes disapproved in such cases as Chayt, Cleland, Phillips, Jahnigen, and Gardner. Indeed, taken in their entirety, including the interrelated special exception, there is an impermissible expansion in the land area of the nonconforming use.

In sum, the record here does not disclose any reason to justify any modification of the 1993 decision to allow the Country Club to have any addition or change to the uses there agreed upon and approved. Such an approval would conflict with the principles of nonconforming use law. It would also undermine the integrity of a respectable practical compromise decision to which the parties most immediately affected agreed. Respect for the integrity of such decisions is important. Otherwise, parties will be reluctant to enter into reasonable agreed resolutions or to accommodate themselves to compromise decisions made by the Zoning Commissioner or the County Board of Appeals.

Conclusion

There does not appear to be any justification for any proposed change to the uses, buildings, structures, and other elements approved by this County Board of Appeals in its June 23, 1993 Order. The proposal, moreover, directly conflicts with the law of nonconforming uses and constitutes a change which would terminate the entire use.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of September, 2005, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, and J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286, attorneys for the parties.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

County Council of Baltimore County Maryland

Legislative Session 1963, Legislative Day No. 11

BILL No. 64

Introduced by Mr. Green (4th), Councilman

By the County Council, July 8, 1963.

I hereby certify that this is the original of Bill No.64, which was introduced and read the first time on the above date.

By Order: R. Bruce Alderman, Secretary.

A BILL

Entitled

AN ORDINANCE, to amend the Baltimore County Zoning Regulations, 1955, to regulate the location, construction and use of buildings, structures and land for waterfront facilities, to adopt definitions and other amendments concerning waterfront uses, to require the issuance of special exceptions by the zoning commissioner for certain commercial beaches, marinas, community buildings, golf courses, and similar uses devoted to civic, social, recreational and educational activities, by adding section 417 to Article 4, "Special Regulations", by inserting new definitions on pages two and five in Article 1, "General Provisions", by repealing subsections 200.5 and 200.6, and by amending subsections 200.15, 206.2, 215.5, 230.13, *232.2*, 236.4, 253.4, ~~253.5,~~ ~~256.4~~ *256.1* and 270 of Article 2, "Zones: Use, Height, and Area Regulations", of said Baltimore County Zoning Regulations, 1955.

WHEREAS, the amendments to the zoning regulations which are contained in this Bill, having been formulated in accordance with the procedure specified in sections 23-20 and 23-21 of the 1962 Cumulative Supplement to the Baltimore County Code, 1958, the said several public hearings required by said sections having been held after the required public notices; now, therefore

SECTION 1. Be it ordained by the County Council of Baltimore County, Maryland, That section 417 be and it is hereby added to the Baltimore County Zoning Regulations, 1955, title "Special Regulations", said new section to read as follows:

Exh. A

County Council of Baltimore County Maryland

Legislative Session 1970, Legislative Day No. 11

BILL NO. 100

Introduced by Mr. Bartenfelder, Councilman

(Request of County Executive)

By the County Council, July 6, 1970.

A BILL

Entitled

AN ACT to amend the Baltimore County Zoning Regulations to provide certain new regulations and to revise certain existing regulations for establishment of zoning classifications, conversion and redesignation of "Residence" zoning classifications; to provide for the deletion and addition of terms and definitions; to provide for the application of light manufacturing zoning regulations to areas covered by previously submitted subdivision plans; to establish Rural and Rural-Suburban zoning classifications, "Density" Residential (D.R.) zoning classifications and Elevator-Apartment-Residence Zoning Classifications; to amend the special regulations for Community-Core Commercial (C.C.C.) Districts; to revise the use regulations in Light Manufacturing (M.L.) Zones; to revise the regulations governing automotive service stations in permitted parking garages; to establish regulations for Unit Developments and the classifications and authorizations thereof; to provide for the continuing validity of special exceptions granted for elevator apartment buildings or office buildings under R.A. Zoning Classifications; to provide that the Planning Board may adopt and implement certain policies and procedures in furtherance of the Zoning Regulations; by repealing and re-enacting with amendments Subparagraph 100. 1. A. 2; by adding new Subsection 100.3A; by deleting and adding certain definitions to Section 101, entitled "Definitions"; by amending Subsection 103.1; by adding new Articles 1A and 1B; by repealing designation and title, "Article 2-Zones and Districts: Use, Height and Area Regulations", and the subtitle, "R.40 Zone-Residence, One-Family" and enacting in lieu thereof a new designation and title as follows:

Exh. B

Section 1A04
R.C.5 (Rural-Residential) Zone

1A04.1 General provisions.

A. Legislative statement of findings.

1. Declaration of findings. It is found that:

a. The rural-residential development that has occurred in Baltimore County heretofore has been of a scattered and generally disorderly nature;

b. This form of development constitutes a wasteful use of land and is fiscally expensive to serve with respect to the provision of basic services;

c. In some cases lot sizes are inadequate to assure long-term adequacy of on-lot sewer and water systems;

d. That unless measures are implemented to assure more rational growth patterns, including adequate lot size, undue financial hardships will be placed on Baltimore County and the life, safety and general welfare of the citizens of the county will be adversely affected;

e. That specific areas which are highly suitable for rural-residential development do exist; and

f. That these areas are adequate to accommodate anticipated future growth in the rural area and that future growth should be directed to these areas.

B. Purpose. The R.C.5 zoning classification is established, pursuant to the legislative findings above, in order to:

1. Provide for rural-residential development in suitable areas in which basic services are not anticipated.

2. Eliminate scattered and generally disorderly patterns of future rural-residential development.

3. Assure that encroachments onto productive or critical natural resource areas will be minimized.

4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems.

1A04.2 Use regulations.

A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C.5 Zones:

1. Churches or other buildings for religious worship including church schools.

2. Dwellings, one-family detached.

Defense counsel did not propose his second exception at this point and the parties went on to give their closing arguments to the jury. At the end of closing arguments and after the jury had retired defense counsel noted his second exception to the judge's assumption of a controverted fact, *i.e.*, that the car Dircks and Gloria saw was Morrow's Pacer.

The record clearly reflects that defense counsel had ample opportunity to interject his objection in timely fashion. Maryland Rule 757 h provides that an objection to a jury instruction shall be made "before the jury retires . . . and shall state the matter or omission . . . to which [counsel] objects." Morrow's objection did not conform to the requirements of Rule 757 h and is therefore barred from appellate review.

Judgment affirmed; appellant to pay costs.

Exh. D

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND v. E. L. GARDNER, INC.

[No. 11, September Term, 1981.]

Decided April 2, 1982.

ZONING — *Basic Principles — Division Of Community Into Use Districts, Each Restricted To Industrial, Commercial Or Residential Occupation Is Basic Tenet Of Efficient Employment Of Land.* p. 266

ZONING — *Nonconforming Uses — Limit Effectiveness Of Land Use Controls — Fundamental Problem Of Zoning Is Inability To Eliminate Incompatible Nonconforming Uses — Zoning Regulations Place Limits On Right To Change, Alter, Repair, Restore Or Recommence Nonconforming Uses — Purpose Of Such Restrictions Is To Achieve Ultimate Elimination Of Nonconforming Uses Through Economic Attrition And Physical Obsolescence.* pp. 266-268

ZONING — *Nonconforming Use — Whether Nonconforming Use Can Be Changed, Extended, Enlarged, Altered, Restored Or Recommenced After Abandonment Is Governed By Provisions Of Applicable Local Ordinance And Regulations — Such Laws Are Strictly Construed To Effectuate Purpose Of Eliminating Nonconforming Uses.* p. 268

ZONING — *Prince George's County — Nonconforming Use — County Code Prohibits Change On Nonconforming Use To Any Use Other Than That Provided By Permits Under Which Nonconforming Use Operated — Addition Of Wet-Processing Facility To Existing Nonconforming Sand And Gravel Mining Operation Involves Change Of Nonconforming Use — County Council Has No Authority To Grant Special Exception Which Changes Nonconforming Use — Prince George's County Code, §§ 27-107, 27-108 (a), 27-482 (a), 27-553 (a), 27-538.1 (1979).* Where owner of nonconforming sand and gravel operation sought special exception to add a wet-processing facility, the Court *held*, construing the Prince George's County Zoning Ordinance, that a sand and gravel pit was a special exception use separate and distinct from a special exception use for sand and gravel wet-processing; that the addition of wet-processing to a nonconforming sand and gravel operation constituted a *change* of nonconforming use, rather than an intensification of a nonconforming use; and that the County Council lacked authority to approve a change of nonconforming use. Prince George's County Code (1979), §§ 27-107, 27-537 (a) (1) and 27-538.1 (a). pp. 268-270

ZONING — *Prince George's County — Nonconforming Use — Addition Of*

IN THE MATTER OF THE APPLICATION OF OREGON, LLC –C.P.; BALTIMORE COUNTY RECREATION & PARKS – LEGAL OWNER FOR SPECIAL HEARING, SPECIAL EXCEPTION AND VARIANCE ON PROPERTY LOCATED ON THE SW/S KURTZ LANE AND BEAVER DAM ROAD (1201 SHAWAN ROAD)	*	BEFORE THE
	*	COUNTY BOARD OF APPEALS
	*	OF
	*	BALTIMORE COUNTY
	*	Case No.: 02-461-SPHXA
8TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

OPINION

This case comes to the Board of Appeals based on a timely appeal from the Zoning Commissioner of Baltimore County.

The Petitioner, Oregon, LLC ("Oregon") was represented by Robert A. Hoffman, Esquire, and David H. Karceski, Esquire, and VENABLE, LLP. The Protestants were represented by G. Macy Nelson, Esquire, and Michael McCann, Esquire. The Board conducted public hearings over a 5-day period on November 4, 2003, March 24, 2004, March 25, 2004, March 31, 2004 and April 13, 2004. At the conclusion of the evidentiary proceedings on April 13, 2004, counsel was directed to file simultaneous written briefs in lieu of oral argument. These were submitted on May 24, 2004. The Petitioner made available a complete copy of the Transcript along with their Brief. A public deliberation was conducted by the Board on June 9, 2004.

At the initial onset of the case on November 4, 2003, the Protestants attempted to enlarge the scope of the proceedings by requesting the Board "to revisit the entire special exception because it's a change of the prior use." [T 11/04/03, p 4] To accomplish that request would require the Board to treat the present special exception as if it were a fresh application. The Petitioner objected indicating that they were not prepared to "retry the 1995 case" [p 5] because "there is an existing

Exh E

IN THE MATTER OF THE APPLICATION OF BONNER-JOPPA, LLC – PETITIONER FOR SPECIAL HEARING ON PROPERTY LOCATED ON THE SW/CORNER OF "C" STREET AND AVONDALE ROAD (3015 E JOPPA ROAD)	* BEFORE THE * COUNTY BOARD OF APPEALS * OF * BALTIMORE COUNTY
11TH ELECTION DISTRICT 6TH COUNCILMANIC DISTRICT	* CASE NO. 04-127-SPH

* * * * * * * * *

OPINION

This case comes to the County Board of Appeals as an appeal filed by the Office of People's Counsel from a decision of the Deputy Zoning Commissioner's decision issued on December 3, 2003, granting the special hearing request to approve an amendment to the Order in Case No. 02-066-SPHA, Restriction No. 9, to permit one tow truck to be stored on-site for the purpose of providing emergency towing services under contract from Baltimore County from the subject property at 3015 East Joppa Road.

The Petitioner, Mr. Timothy Bonner, of Bonner-Joppa, LLC, was represented by F. Vernon Boozer, Esquire. Peter M. Zimmerman, People's Counsel for Baltimore County, appeared on behalf of that office. The Board conducted a public hearing on September 22, 2004, and a public deliberation on November 4, 2004.

In his opening statement, Mr. Zimmerman described the zoning history of the subject site, which dates back to 1975. The lot is zoned for commercial use (B.L.-A.S.) but is surrounded by a residential neighborhood (D.R. 5.5). The most recent zoning decision is dated September 28, 2001. Mr. Zimmerman noted that a compromise agreement was reached at that time with the neighborhood which set 10 restrictions on the granting of the special exception. The instant case (Case No. 04-127-SPH) involves Restriction No. 9, which prohibited tow trucks from operating on the property.

The main issue in this case, according to Mr. Zimmerman, was whether an agreement that

Exh. F

IN THE MATTER OF THE APPLICATION OF MILFORD MANOR; GARY RAFFEL - PETITIONER FOR A SPECIAL HEARING AND VARIANCE ON PROPERTY LOCATED ON THE SW/S OF MILFORD MILL ROAD, 45' N OF PLYMOUTH ROAD (4204 AND 4212 OLD MILFORD MILL ROAD) 3RD ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case No.: 04-315-SPHA

* * * * * * * * * * * *

OPINION

This is an appeal from a decision of the Zoning Commissioner in which the Zoning Commissioner granted relief requested in a Petition for Special Hearing and Petition for Variance. The appeal was filed by Peter M. Zimmerman, People's Counsel for Baltimore County, and Carole S. Demilio, Deputy People's Counsel.

The hearing before this Board was held on December 21, 2004 with a public deliberation held on January 26, 2005. Carole S. Demilio, Deputy People's Counsel, appeared on behalf of the Office of People's Counsel. The Colonial Village Neighborhood Association appeared as Protestant. The Petitioners (Milford Manor Partnership /Gary Raffel, Esquire) were represented by Alan Betten, Esquire, and KANDEL, KLITENIC, KOTZ & BETTEN, LLP.

Facts

Testimony and evidence given at the *de novo* hearing revealed the subject property is located on the north side of Old Milford Mill Road, west of Colby Road in Reisterstown. There are two adjacent parcels of land that make up the said location, the largest portion is known as 4204 Old Milford Mill Road and is improved with a 119-bed nursing home, which has existed on the property since 1961.

Exh. G

WHITEFORD, TAYLOR & PRESTON
L.L.P.

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G. SCOTT BARHIGHT
DIRECT NUMBER
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gbarhight@wtplaw.com

June 9, 2005

RECEIVED
JUN 09 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Via Hand Delivery
Ms. Kathleen C. Bianco, Administrator
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Baltimore County Club at Five Farms
Case Nos.: 04-508-SPH & 04-600-SPH

Dear Ms. Bianco:

Enclosed for filing, please the original and three copies of Baltimore County Club's Pre-Hearing Memorandum for the above-reference cases. BCC respectfully requests that the Board review this Memorandum in preparation for the hearings scheduled for June 15, 19, and 21, 2005. Attached to the Memorandum are copies of the previous Zoning Orders relating to Five Farms, and the previously approved Plans relating to those Zoning Orders. Specifically, the following documents are attached to the Memorandum:

Tab 1	Order in Case 93-37-SPH
Tab 2	BCC's Plan to Accompany Special Hearing Petition dated 7/16/92
Tab 3	Order in Case 93-388-X
Tab 4	BCC's Plan to Accompany Special Exception Petition dated 6/11/93
Tab 5	Order in Case 97-384-SPH
Tab 6	Order in Cases 04-508-SPH (the Community's Petition) and 04-600-SPH (BCC's Petition)
Tab 7	BCC's Plan to Accompany Special Hearing Petition dated 6/18/04

Thank you for your assistance with this matter.

Sincerely,

G. Scott Barhight

G. Scott Barhight

GSB/sll
Enclosure

cc: J. Carroll Holzer, Esquire
Baltimore Country Club
Paul Maloney, Esquire
Aaron Knights, Esquire

329282

6/9/05

IN THE MATTER OF:		
BALTIMORE COUNTRY CLUB	*	BEFORE THE
Legal Owner		
11500 Mays Chapel Road	*	COUNTY BOARD OF APPEALS
8th Election District, 2nd Councilmanic District		
v.	*	OF BALTIMORE COUNTY
DEBORAH TERRY, *et. al.*		
Protestants/Petitions	*	Case Nos.: 04-508-SPH &
(Case # 04-508-SPH)		and
	*	04-600-SPH
And		
	*	
IN THE MATTER OF:		
BALTIMORE COUNTRY CLUB	*	
11500 Mays Chapel Road		
8th Election District, 2nd Councilmanic District		
Legal Owner/Petitioner	*	
(Case # 04-600-SPH)		

* * * * *

BALTIMORE COUNTRY CLUB'S PRE-HEARING MEMORANDUM

NOW COMES, G. Scott Barhight, Jennifer R. Busse, and Whiteford, Taylor & Preston, L.L.P., and on behalf of the Baltimore Country Club of Baltimore City ("BCC"), hereby file this Pre-Hearing Memorandum, and in support thereof states as follows:

Statement of the Case

A Petition for Special Hearing was filed by Deborah and Fred Terry, Donna Dow, M.D., Joseph R.B. Tubman and Courtney Spies, Jr. (Protestants/Petitioners, herein referred to as "Protestants") in Case No. 04-508-SPH. Protestants are property owners in the vicinity of BCC's 11500 Mays Chapel Road Club ("the Property"). Subsequently, BCC filed a Petition for Special Hearing in Case No. 04-600-SPH. The cases were combined and public hearings were held before the Deputy Zoning Commissioner.

BCC orally raised Preliminary Motions and submitted a supporting legal memorandum. On August 19, 2004, the Deputy Zoning Commissioner issued an Order on BCC's Preliminary

Motions raised by BCC, granting in part and denying in part, the relief sought by BCC's Preliminary Motions. BCC reserved its rights to appeal the interlocutory order and proceeded with the hearing in accordance with the direction of the Deputy Zoning Commissioner.

After full hearings on the merits, the Deputy Zoning Commissioner issued his Findings of Fact and Conclusions of Law on October 22, 2004, granting in part and denying in part the relief sought in Protestants' Case No. 04-508-SPH; and granting with conditions the relief sought in BCC's Case No. 04-600-SPH.

On November 17, 2004, BCC filed a timely Notice of Appeal of: 1) specific portions of the Deputy Zoning Commissioner's Ruling on the Order on Preliminary Motions, 2) specific portions of the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law, and 3) specific portions of the Deputy Zoning Commissioner's "Summary" (Order) within his Findings of Fact and Conclusions of Law.

Protestants filed a timely Notice of Appeal of the Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law on November 19, 2004.

This County Board of Appeals of Baltimore County ("the Board") has set hearing dates for these appeals to take place on June 15, 19 and 21, 2005.

Statement of Facts

The relevant facts are not in dispute. The parties agree upon which Zoning Cases, approved Plans and Agreement are relevant to this inquiry. The parties also agree that they are unable to reach an agreement on whether the proposed tennis activities are permitted by the existing Orders, Plans and Agreement. Below is a summary of the relevant cases which preceded those now before the Board regarding this same property.

Case No. 93-37-SPH

The vast majority of BCC's property was granted nonconforming use status through Case No. 93-37-SPH. *See* Order, Community Exhibit 3[1]; and approved Plan, Community Exhibit 2. Specifically, the nonconforming use case, Case No. 93-37-SPH, confirmed a nonconforming country club use for what has been identified as the Non-Conforming Use Area.

The Zoning Commissioner found that "a country club is, in fact, a land use." *Id.* at p. 8. He held that the use was in existence at the time zoning came to Baltimore County and that it has continued in the same manner for the past 48 years. He further held that the land which encompassed Five Farms Country Club as it existed on September 26, 1963 is nonconforming. The Non-Conforming Area includes approximately 400 acres and includes the clubhouse, the pool and the two golf courses.

In reaching his decision, the Zoning Commissioner clearly resolved the question of what standard applies to the extension or enlargement of this nonconforming use. Mr. Schmidt stressed that "it is the land and not any structure which forms the basis of the country club use." He explained that, as to this use, "the square footage of the building is irrelevant." He further held that "the clubhouse structure in and of itself is not significant. ... The clubhouse is incidental to [the country club] use only." *Id.* at p. 9.

The Zoning Commissioner utilized the four prong test set forth in the case of *McKemy v. Baltimore County*, 39 Md. 256 (1978) in determining when a nonconforming use may be intensified. He held that the modifications then proposed, which included the remodeling and renovation of several ancillary buildings, the reconstruction of the clubhouse, the relocation of the paved parking area, the renovation of the pools, the installation of tennis courts, and the

construction of a tennis building were all permissible under the *McKemy* test since those modifications did "nothing more than reflect the nature and purpose of a country club use." *See* Opinion of Case No. 93-37-SPH at p. 12. He further noted that the modifications were "entirely consistent with the country club and are not different in either character, nature or kind. They are clearly all within the umbrella of those uses which constitute a country club operation. Additionally, there will be no difference in impact on the neighborhood caused by these modifications." *Id.* at p. 13.

Case 93-388-X

A portion of the BCC property was not granted nonconforming use status. As a result, another zoning case was filed and Special Exception relief was granted to BCC. Specifically, two small parcels, one of which ("Parcel A", formerly known as the "Boyce Parcel") the Community has brought to issue in its instant Petition (Case No. 04-508-SPH), were granted Special Exception relief for a country club through Case No. 93-388-X. *See* Order, Community Exhibit 5A; and approved Plan, Community Exhibit 4. The Plan approved in Case 93-388-X involved three tennis courts and parking on Parcel A.

The Community appealed that decision and while the appeal was pending, the parties entered into an agreement and covenants to resolve the differences arising out of the original Non-Conforming Use and Special Exception cases. *See* Community Exhibits 5B and 5C.

Case 97-384-SPH

As a result of a dispute which arose in 1997, a subsequent Order was entered in Case No. 97-384-SPH. *See* Community Exhibit 7. Case No. 97-384-SPH involved a Petition for Special Hearing filed by the Community. The Deputy Zoning Commissioner's decision in the 1997 case

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[1] All references to Exhibits are those references provided to documents submitted into evidence at the hearings below, held before the Deputy Zoning Commissioner. These Exhibits are in the record before this Board.

confirmed BCC's nonconforming use status for the Non-Conforming Use Area and confirmed BCC's special exception status for the remainder of its property (including Parcel A - the Boyce property). At that time, BCC proposed a total of 9 tennis courts for the Property. Just as is the case today, three of the tennis courts were proposed to be partially located on Parcel A and partially located on the adjacent Non-Conforming Use parcel. *See* Community Exhibit 1 (tennis improvements as now proposed) and Community Exhibits 2 and 4 (tennis improvements as previously approved).

The tennis improvements as originally proposed included parking adjacent to the Bomont Road residences, direct access to the tennis court area from Mays Chapel road, and more impervious area than what is now proposed. Additionally, the tennis courts on the Boyce parcel were originally proposed to be located closer to Bomont Road. All of these changes will only lessen the impact, if any, on the community. *See* Community Exhibit 1 (tennis improvements as now proposed) and Community Exhibits 2 and 4 (tennis improvements as previously approved).

Case 04-600-SPH

Amendments to the previously approved tennis activities are proposed for both the Non-Conforming Use Area and the Special Exception Area, Parcel A. *See* Community Exhibit 1, BCC's Plan to Accompany Special Hearing in BCC's Case No. 04-600-SPH. Specifically, BCC proposes to construct a total of twelve tennis courts and a tennis building. Nine of these tennis courts and the tennis building will be located completely within the Non-Conforming Use Area. Three of the tennis courts will be located partially within the Non-Conforming Use Area and partially within the adjacent Special Exception Area, Parcel A. *Id.* The existing approvals include a total of nine tennis courts, a tennis building and parking areas. The proposed

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A number of the Exhibits are also attached to this memorandum, as listed in the "Table of Contents".

amendments include the addition of three tennis courts, the relocation of the tennis building and the elimination of several parking areas.

Explanation of Nonconforming Use Law

When determining whether an activity is within the scope of a nonconforming use, the following factors are considered: 1) to what extent does the current use of the lot reflect the nature and purpose of the original nonconforming use; 2) is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind; 3) does the current use have a substantially different effect upon the neighborhood; and 4) is the current use a "drastic enlargement or extension" of the original nonconforming use. *County Commissioners of Carroll County v. Zent*, 86 Md.App. 745, 753-54 (1991).

Whether or not a nonconforming use may be enlarged or extended is governed by the provisions of the local ordinances and regulations, here, the Baltimore County Zoning Regulations ("BCZR"). *Feldstein v. LaVale Zoning Board*, 246 Md. 204, 210-11 (1967). The question of whether a proposed use is an extension or an enlargement of a nonconforming use is ordinarily a question of law which is decided on a case-by-case basis. *Id.* Section 104.3 of the BCZR states that "[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used..."

At issue in this appeal is whether the increase in volume of BCC's tennis facilities constitutes an intensification or an impermissible extension of its nonconforming country club use. Specifically, the question is whether the increase in the number of BCC's tennis courts from nine courts to twelve courts is an intensification of its country club use.

Intensification of a nonconforming use is permissible as long as the nature of the use is not substantially changed. *Phillips v. Zoning Commissioner of Howard County*, 225 Md. 102, 110 (1961). Maryland courts generally disapprove, as a substantial departure from a vested nonconforming use, a change from one use to another. Consequently, the rule in Maryland is that a change from one nonconforming use to a new and different one constitutes an "extension" of the use. *Id.* (citing *Chayt v. Board of Zoning Appeals of Baltimore City*, 177 Md. 426 (1939) and *Boulevard Scrap Co. v. City of Baltimore*, 213 Md. 6 (1957)); *Feldstein*, 246 Md. at 211. Such an extension of the use is not permitted because the lawful nonconforming use of land "'must be held to contemplate only a continuation of substantially the same use which existed at the time of the adoption of the ordinance, and not some other and different kind of nonconforming use which the owner of the land subsequently find [sic] to be profitable or advantageous.'" *Id.* at 111-12 (quoting *Botz v. Garrett*, 159 S.W.2d 367 (Mo. App. 1942)).

On the other hand, an increase in the volume of an existing activity is usually referred to as an "intensification" rather than an enlargement and such an intensification has been permitted under a valid nonconforming use. *Zent*, 86 Md.App. at 754, n.5 (quoting *Prince George's Co. v. E.L. Gardiner, Inc.*, 47 Md.App. 471 (1981), *rev'd on other grounds*, 293 Md. 259 (1982)). In other words, the more frequent present use of a property for the same or a similar use than that for which it had been used less frequently is deemed a lawful intensification of a nonconforming use. *Feldstein*, 246 Md. at 211.

Addressing a similar issue in *Muse v. Zoning Hearing Board of Ben Avon Heights Borough*, 415 A.2d 1255 (Pa. Commw. 1980), the Commonwealth Court of Pennsylvania ruled that a country club's construction of tennis courts is a "natural expansion" of its country club activity. *Muse*, 415 A.2d at 1257. Unlike the present case however, *Muse* dealt with a country

club proposing the addition of tennis courts to its existing golf, swimming, paddle tennis and skeet shooting facilities. Here, the issue is simply whether increasing the number of tennis courts by three constitutes intensification or an impermissible extension of BCC's nonconforming use. If a country club's addition of tennis courts is deemed an intensification rather than an unlawful extension of a nonconforming use, then simply increasing a club's number of tennis courts from nine to twelve clearly constitutes an intensification of the club's normal activities.

In *Feldstein, supra*, the Court of Appeals held that a junkyard's increase in quantity and height of its stored scrap metal was an intensification and not an extension of a nonconforming use. *Feldstein*, 246 Md. at 211. There, the piles of junk increased in height from eight feet to approximately twenty-five feet. Rejecting the argument that the junkyard's increase in the lawful preexisting use of the property constituted an impermissible extension, the Court affirmed the trial court's denial of the zoning board's request for injunctive relief to prohibit the junkyard from extending beyond the area occupied at the time the local ordinance was adopted. *Id.*

Similarly, in *Nyburg v. Solmson*, 205 Md. 150 (1954), the Court of Appeals held that a garage owner's expansion of his business by using open space for storage of new cars was an intensification of a long continued nonconforming use rather than an impermissible extension. *Nyburg*, 205 Md. at 161. Likewise, in *Helfrich v. Mongelli*, 248 Md. 498 (1968), the Court of Appeals held that an inn's enclosure of its porch "amounts to no more than a permissible intensification of an existing nonconforming use and hardly amounts to a change that would affect the character of the neighborhood." *Helfrich*, 248 Md. at 504. More recently, the Court of Special Appeals held that a milk trucking and distribution business merely intensified its

nonconforming use when it began storing inoperable trucks on its property. *Zent*, 86 Md.App. at 748, 753-57 (equating the doctrine of natural expansion to Maryland's theory of intensification).

Application of Facts to Law

The Community has alleged that BCC's proposed tennis improvements will constitute a violation of the restrictions within BCZR §104 by expanding the use by more than 25%. The Community questioned whether BCC's nonconforming use status is in jeopardy. *See* Community's Questions 7, 8 and 9. These assertions are moot. These issues have previously been decided. The Community is improperly attempting to relitigate these issues because it is dissatisfied with the Zoning Commissioner's previous decision. The Community dismissed their appeal of the Zoning Commissioner's decision in Case No. 93-37-SPH. Therefore, that decision stands. Pursuant to the doctrines of *res judicata* and law of the case, the applicability of BCZR §104 cannot be relitigated.

The nonconforming use case, Case No. 93-37-SPH, confirmed a nonconforming country club use for what has been identified as the Nonconforming Use Area. In reaching his decision, the Zoning Commissioner clearly resolved the question of what standard applies to the extension or enlargement of this nonconforming use. Mr. Schmidt stressed that "it is the land and not any structure which forms the basis of the country club use." He explained that, as to this use, "the square footage of the building is irrelevant." He further held that "the clubhouse structure in and of itself is not significant. ... The clubhouse is incidental to [the country club] use only." *Id.* at p. 9.

BCC chose not to provide proof of the square footage of the clubhouse in Case No. 93-37-SPH. The Zoning Commissioner ruled that this did not affect the determination of the site's nonconforming use status. *Id.* at pp. 7-9. He explained that whether the clubhouse was enlarged

did not prohibit the establishment of the nonconforming use. Therefore, whether there will be any additional building square footage related to BCC's now proposed tennis improvements is irrelevant.

The same result must be found to relate to any expansion of the tennis area. The approved plan for the "Non-Conforming Use Area" designated numerous use areas. One of these use areas was labeled the "Outdoor Recreation Area". The approved nonconforming use plan indicates a wide variety of activities which are permitted within the Outdoor Recreation Area. Tennis is listed as one of the Outdoor Recreation Uses. The notations contained on the plan specifically state as follows:

> "The activities listing is not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore County Club.
> ...
> Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club."

Therefore, pursuant to both the Zoning Commissioner's Order and the approved Plan in Case No. 93-37-SPH, the square footage of the buildings on site is irrelevant. BCC has not proposed any enlargement of the country club property. Therefore, the Community's claim that BCC's proposal will violate the 25% rule of BCZR §104 is moot. It cannot be relitigated.

Moreover, the 25% rule of BCZR §104 does not apply to the increase in the number of tennis courts because BCC is not proposing to expand any buildings on the Property. BCZR §104 states, in relevant part, "[n]o nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used." There will be no extension of the ground floor area of any buildings on the Property. Consequently, the 25% rule of BCZR §104 does not apply to these facts.

As explained above, the previous zoning cases constitute the law of the case in this appeal. Furthermore, the doctrine of *res judicata* mandates that this issue cannot be relitigated. On the first day of hearing in this matter, counsel for BCC argued that many of the questions raised by the Community now were previously asked and answered by the Deputy Zoning Commissioner in Case No. 97-384-SPH. *See*, T 1, pp. 19-32. In attempting to explain away these attempts to relitigate issues, counsel for the Community stated that he is "smarter" and "wiser" now. *Id.* at pp. 20, 32. Maryland case law clearly provides that just because a party believes he can better prove a case the second time around does not render the doctrine of *res judicata* inapplicable. *A.B. Veirs, Inc. v. Whalen*, 256 Md. 162, 169 (1969).

The Community's assertion that BCC's nonconforming use status is in jeopardy is baseless. This issue was previously decided by the Zoning Commissioner in Case No. 93-37-SPH as well. Again, the Zoning Commissioner determined that because the buildings are incidental to the country club use, modifications are permissible. He explained that the test set forth in *McKemy v. Baltimore County*, 39 Md.App. 256 (1978) is instructive for the instant case.

Here, BCC is merely proposes to intensify its nonconforming country club use by increasing its number of tennis courts from nine to twelve. The addition of three tennis courts does not change BCC's nonconforming country club use to a different nonconforming use. Applying the factors enumerated in *McKemy*, BCC's increase from nine tennis courts to twelve tennis courts is entirely within the scope of its nonconforming use as a country club. Moreover, the mere increase of tennis courts from nine to twelve is an intensification of BCC's activities that are entirely permissible under Maryland law.

The proposed tennis improvements within the Outdoor Recreation Area are completely consistent with the previously approved nonconforming use plan. As explained below, these proposed modifications satisfy the *McKemy* standard and therefore must be approved.

In Case No. 93-37-SPH, Mr. Schmidt laid out the four prong *McKemy* test, explaining that this case provides the standard under which any intensification of this nonconforming use is to be analyzed. *Id.* at p. 12-13. He stated that the four prong test as applied to BCC is:

> 1) To what extent do the proposed modifications of the Five Farms property reflect the nature and purpose of the original country club use?
> 2) Are the proposed modifications merely a different manner of utilizing the existing nonconforming country club use or do they constitute a use different in character, nature and kind?
> 3) Do the proposed modifications have a substantial and different effect on the neighborhood?
> 4) Are the proposed modifications a drastic enlargement or extension of the original nonconforming use?

Id. at p. 12.

The changes to the previously approved tennis activities now include an additional three tennis courts (each of these additional three courts to be located on the Non-Conforming Use Area), a minor relocation of the tennis building, the elimination of parking and the elimination of the entrance to the tennis area from Mays Chapel Road. Similar to *Muse, supra*, the addition of tennis activities to BCC's other country club activities was deemed an intensification of its nonconforming country club use in Case 93-37-SPH. Since Mr. Schmidt held that the remodeling and renovation of several buildings, the reconstruction of the clubhouse, the relocation of the paved parking area, the renovation of the pools, the installation of tennis courts, and the construction of a tennis building were all permissible under *McKemy*, then simply increasing the number of tennis courts from nine to twelve likewise constitutes an intensification of BCC's nonconforming country club use.

BCC will present testimony on these issues. This Board will hear testimony explaining that BCC's proposed improvements represent an evolution of a long-standing plan to relocate all of the summer outdoor recreation facilities to its new campus in Timonium. Testimony will also evidence that the proposed modifications are not a drastic enlargement of the approved country club use but rather they are absolutely in concert with any country club use. Further, testimony will evidence that the proposed modifications will not have a substantial and different effect on the neighborhood as compared to what was originally proposed, and are not a drastic enlargement of the approved country club use, but rather are simply a function of providing the improvements necessary for the club's tennis tournament play.

As determined by Mr. Schmidt in Case No. 93-37-SPH, where the modifications meet the *McKemy* standard, they simply represent an intensification of what already occurs on the property and are therefore permissible. BCC will demonstrate that the now proposed improvements similarly meet the *McKemy* standard and therefore must be approved. The proposed changes to the previously approved tennis activities are so insignificant that any impartial third party would be amazed at all the effort being required of BCC to gain approval.

Respectfully Submitted,

G. Scott Barhight

G. Scott Barhight
Jennifer R. Busse
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue, Suite 400
Towson, Maryland 21204
(410) 832-2000
Attorneys for Baltimore Country Club

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June, 2005, a copy of Baltimore Country Club's Pre-Hearing Memorandum was mailed, first class, postage prepaid, to:

J. Carroll Holzer, Esq.
508 Fairmount Avenue
Towson, Maryland 21286-5448

G. Scott Barhight
G. Scott Barhight

336530

IN THE MATTER OF: BALTIMORE COUNTRY CLUB Legal Owner 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District v. DEBORAH TERRY, et. al. Protestants/Petitions (Case # 04-508-SPH) AND IN THE MATTER OF: BALTIMORE COUNTRY CLUB 11500 Mays Chapel Road 8th Election District, 2nd Councilmanic District Legal Owner/Petitioner (Case # 04-600-SPH)	*	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Case Nos.: 04-508-SPH and 04-600-SPH

* * * * *

BALTIMORE COUNTRY CLUB'S PRE-HEARING MEMORANDUM

G. Scott Barhight, Esquire
Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Suite 400
Towson, Maryland 21204
410-832-2077
Attorneys for Baltimore Country Club

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334770

Tab 1

IN RE:	PETITION FOR SPECIAL HEARING SW/S Jenifer Road, N/S Timonium Road 11500 Mays Chapel Road 8th Election District 3rd Councilmanic District Baltimore Country Club of Baltimore City Petitioner	* * * * *	BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY CASE # 93-37-SPH

****

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property located in Timonium known as the Baltimore Country Club at Five Farms. As stated in the Petition, the property owner seeks approval of "an existing nonconforming country club and modifications." Clearly, the wording of the Petition is but a general statement of the relief sought by the property owner. Specifically, the Petitioner seeks legitimization of a vast tract of property as a nonconforming country club use and approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired.

The Petition was filed by the Baltimore Country Club of Baltimore City, the legal owner of the property. The Petitioner is represented by G. Scott Barhight, Esquire. Numerous witnesses appeared on behalf of the Petition. They included William P. Geary, a long time member of the Country Club and its current President. He testified extensively as to the history of the property from the time of its acquisition by the Club in the 1920s to the present. Also testifying was Paul T. Spellman, Jr., who has been employed as the General Manager and Chief Operating Officer of the Club since 1985. Mr. Spellman is the individual who is the hands-on manager of the facility and directs its day to day operation. Also testifying was Edmund Haile of Daft, McCune and Walker. Mr. Haile, a Civil Engineer, assisted in the prepa-

Tab 3

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION FOR A COUNTRY CLUB	*	ZONING COMMISSIONER
11500 Mays Chapel Road Parcel A - NWC Mays Chapel Road and Bomont Road Parcel B - W/S Mays Chapel Road, 361 feet plus or minus S/S Chapel Ridge Road Eighth Election District Third Councilmanic District	*	OF BALTIMORE COUNTY
Petitioner: Baltimore Country Club of Baltimore City	*	Case No. 93-388-X

* * * * * * * * * * * * * * * *

FINDINGS OF FACTS AND
CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the subject parcels located at 11500 Mays Chapel Road. The Petition was filed by the property owner, Baltimore Country Club of Baltimore City, which operates a country club at this location known as Five Farms.

The Petitioner seeks approval for a country club on two parcels. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing confirming a nonconforming country club and modifications for those portions of the property owned by the Petitioner as of September 26, 1963. The two parcels which are the subject of this Petition for Special Exception were not owned by the Petitioner as of September 26, 1963. Therefore, Parcels A and B are not part of the nonconforming country club.

The Petitioner is represented by G. Scott Barhight, Esquire. Appearing at the hearing on behalf of the Petitioner as witnesses

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

October 22, 2004

Tab 6

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Petitions for Special Hearing
Case Nos. 04-508-SPH & 04-600-SPH
Property: 11500 Mays Chapel Road

Dear Messrs. Barhight, La Fiandra & Holzer:

Enclosed please find the decision rendered in the above-captioned cases.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Michael Stott, Baltimore Country Club of Baltimore City, 4712 Club Rd., Baltimore, MD 21210
Michael Fisher, 14307 Jarrettsville Pike, Phoenix, MD 21131
W. Daniel White,, 2103 Fox Trail Ct., Reisterstown, MD 21136
Deborah & Frederick Terry, 747 Bomont Road, Timonium, MD 21093
Donna Dow, M.D., 721 Bomont Road, Timonium, MD 21093
Joseph R. B. Tubman, 11431 Mays Chapel Rd., Timonium, MD 21093
Courtney Spies, Jr., 722 Bomont Rd., Timonium, MD 21093
Marvin Tenberg, Vice-President, Falls Road Community Assoc., 12206 Boxer Hill Rd., Cockeysville, MD 21030

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11/19/04

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IN RE: PETITIONS FOR SPECIAL HEARING N/S Bomont Rd. at Intersection With Mays Chapel Rd. **11500 Mays Chapel Road** 8th Election District 2nd Councilmanic District	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Deborah Terry, et al., Petitioners (referred to as "Community") Baltimore Country Club of Baltimore City, legal owners and Petitioners (referred to as "BCC")	*	Case No.: 04-508-SPH (Filed by Deborah Terry, et al.) & Case No. 04-600-SPH (Filed by BCC)

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Per KM

* * * * * * * * * * * *

NOTICE OF APPEAL

Deborah & Fred Terry, 747 Bomont Road; Donna Dow, M.D., 721 Bomont Road; Joseph B.R. Tubman, 11431 Mays Chapel Road; and Courtney Spies, Jr., 722 Bomont Road, all of Timonium, MD 21093, individual Appellants in the above captioned case, by and through their attorney, J. Carroll Holzer and Holzer and Lee, feeling aggrieved by the decision of the Deputy Zoning Commissioner in the above captioned cases, hereby note an appeal to the County Board of Appeals from Findings of Fact and Conclusions of Law in Case No. 04-508-SPH, filed by Deborah Terry, et al. in which the DZC **Denied** in part the requested relief. Appellants also appeal to the County Board of Appeals Case No. 04-600-SPH filed by Baltimore Country Club which was **Granted** in part by the DZC. The Findings of Fact and Conclusions of Law dated October 22, 2004 is attached hereto and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to Baltimore County to cover the costs of the appeal. Appellants were parties below and fully participated in the proceedings.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
508 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
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Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of November, 2004, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 West Pennsylvania Ave., Towson, MD 21204; County Board of Appeals, Basement Old Court House, 400 Washington Ave., Towson, MD 21204; and People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Ave., Towson, MD 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Notices 2004\Terry BCC CBA November 19, 2004

10/22/04

IN RE: PETITION FOR SPECIAL HEARING N/S of Bomont Road at its Intersection with Mays Chapel Road 8th Election District 2nd Councilmanic District **(11500 Mays Chapel Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Deborah Terry, et al., Petitioners (referred to herein as "Community")	*	CASE NO. 04-508-SPH (filed by D. Terry et al) & CASE NO. 04-600-SPH (filed by BCC)
Baltimore Country Club of Baltimore City, Legal Owners and Petitioner (referred to herein as "BCC")	*	

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Case No. 04-508-SPH comes before this Deputy Zoning Commissioner as a Petition for Special Hearing filed by adjacent property owners, Deborah and Fred Terry, Donna Dow, M.D., Joseph R. B. Tubman and Courtney Spies, Jr. The Petitioners have filed a Petition for Special Hearing regarding property owned by the Baltimore Country Club of Baltimore City located at 11500 Mays Chapel Road in the Timonium area of Baltimore County. The special hearing request is filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), for eleven questions presented having to do with BCC's proposal to build twelve tennis courts and a tennis building.

Similarly, Case No. 04-600 is a Petition for Special Hearing filed by the legal owner of the subject property, Baltimore County Country Club of Baltimore City regarding the same issues. The Petitioner is requesting a special hearing for the same property pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), and asks four questions regarding tennis facilities at BCC.

The property was posted with Notice of Hearing on June 16, 2004, for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief. In addition, a Notice

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of Zoning hearing was published in "The Jeffersonian" newspaper on June 29, 2004 to notify any interested persons of the scheduled hearing date.

Applicable Law

Section 500.7 of the B.C.Z.R. *Special Hearings*

The Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall in his discretion be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals. The power given hereunder shall include the right of any interested persons to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any non conforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they may be affected by these regulations.

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: A ZAC comment was received from the Office of Planning dated July 12, 2004, a copy of which is attached hereto and made a part hereof. The Office of Planning has included recommendations in their ZAC comments, some of which will be restrictions to this Order.

Interested Persons

Appearing at the hearing on behalf of the community were Donna Dow, Courtney Spies, Jr., J. R. B. Tubman and Kathleen Tubman, Fred and Debbie Terry, and Marvin Tenberg, Vice-President of the Falls Road Community Association, Petitioners. J. Carroll Holzer, Esquire, represented the community. Appearing on behalf of the Baltimore Country Club were Michael Fisher, W. Daniel White and Michael Stott. Scott Barhight, Esquire, represented the Baltimore Country Club. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Status of the Case

This property is a 406.4 acre parcel in an RC.5 zone, on which the Baltimore Country Club of Baltimore City (BCC) operates a recreational social club with two golf courses, a club house and

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swimming pools. BCC proposes to build twelve tennis courts and a tennis building partially on the original 400 acre parcel and partially on a more recently acquired 2.6 acre parcel known as Parcel A. This property is the subject of both cases and for the convenience of the parties has been combined herein. The "Community", which is the agreed designation of adjacent property owners, objects to the proposal requesting that the terms of an Agreement between the same parties in 1993 be maintained, which specified that nine tennis courts could be built. "BCC" will be the agreed designation for the Baltimore Country Club of Baltimore City.

The Community presented the zoning history of the two properties which is not in dispute. The Zoning Commissioner found in Case No. 93-37 SPH, that BCC operated a nonconforming country club on the original parcel of approximately 400 acres. Part of the approved plan included six tennis courts on the original parcel. The Community appealed this case to the Board of Appeals. BCC subsequently requested a special exception for three more tennis courts and parking on Parcel A in Case No. 93-388-X. While the appeal of Case No. 93-37 SPH was still pending before the Board of Appeals and Case No. 93-388-X was being heard, the parties entered into a written Agreement that BCC could erect nine tennis court on portions of the original property and Parcel A. The was incorporated into the Order in Case No. 93-388-X and the Community dismissed their appeal from Case No. 93-97 SPH. In 1997, the Community filed a request for Special Hearing to essentially review the terms of the prior order and how BCC carried out the terms therein. The Deputy Zoning Commissioner ruled on each of seven questions.

What is in dispute in this case centers on what the terms of the 1993 Agreement actually mean and what affect this has on BCC's proposal to build twelve tennis courts and a tennis building again on portions of the original property and Parcel A. BCC raised preliminary motions to dismiss and to define the scope of the hearing to follow. This Deputy Commissioner ruled on each preliminary question as shown in the Order on Preliminary Motions incorporated into the file.

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Testimony and Evidence

Doctor Donna Dow, who is a nearby property owner, testified that she became concerned about BCC's purchase of Parcel A in 1991. Parcel A is one of the properties along the southern border of BCC where most of the Community members in this case reside. These homes are served by Bomont Road, which gives each property access to public Mays Chapel Road. The thirteen property owners along its route privately maintain Bomont Road. Dr. Dow explained that BCC's property is substantially elevated above the residences along Bomont Road, which means that rainwater runoff from BCC's property ultimately flows onto these residences below and eventually collects in swales and a stream that bisect this residential area.

Dr. Dow explained that the Community was concerned about storm water management, traffic generated on the area public roads, and noise and lighting coming from the tennis facilities. She particularly noted that during construction of a parking lot for BCC in 1996, a construction accident allowed storm water and sediment to inundate Bomont Road clogging drain pipes, culverts and the road itself. She noted that several of the proposed courts are within 100 ft. of Community residences. She also expressed concern that terms of the 1993 Agreement were not met because the Community did not receive storm water design drawings and calculations. She said that these were required to be provided under the terms of the 1993 Agreement in regard to the present proposal. She also noted that the plans the Community received from BCC, or otherwise obtained, showed different configurations for tennis courts, buildings, parking and access so the Community was never exactly sure what was being proposed. She also said that she wanted a sound barrier included in this plan as authorized in the 1993 Agreement.

In regard to the nonconforming uses being made of the property, she indicated that she thought the changes made by BCC since 1963 exceeded the 25% extension rule of Section 104 of the B.C.Z.R. In support of this contention, she submitted recent photographs and aerial

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photographs taken of BCC property in 1964, as shown in Community Exhibit Nos. 15A through 15D.

On cross-examination, she admitted that the Community received several sets of plans from BCC prior to the Community filing its case, but that the important storm water management plans and calculations were not provided. She also admitted that the Community did not respond to an invitation by BCC to meet and discuss the plans presented by BCC in the fall of 2003, because she felt this was a waste of time and money given the history of BCC.

Dennis White, Chairperson of the Tennis Facilities Committee of BCC, indicated that BCC wants to relocate its tennis facilities currently located in Baltimore City to this Baltimore County location. He testified that BCC prepared a master plan in 1993 to that effect, which plan included having enough courts to hold tennis tournaments and inter-league play, providing a tennis building to house BCC's tennis pro, locker rooms and supporting equipment, and controlling access by the public to the tennis facilities. He indicated that the 1993 site plan, approved by the Zoning Commissioner in Case No. 93-388-X, contained all the elements of the present proposal except for the addition of three courts. He noted that the 1993 site plan had a tennis building north of the six courts in the nonconforming area. To illustrate this point, he marked this location on Community Exhibit Nos. 2 and 4 in blue highlighter. He testified that this building had a footprint originally specified on the 1993 plan as approximately 2,900 sq. ft. and the new tennis building is 3,300 sq. ft. as shown on Community Exhibit No. 8. In addition, the building is now moved from above the courts to be located on the west side of the courts. This was done to maintain the view from the swimming pools and to provide better security for the tennis facilities. In this regard, the entrance previously shown on the 1993 plan from Mays Chapel Road was eliminated. Access to the courts will now come via the tennis building, which will be controlled by the tennis staff. Along with these changes the parking for the tennis facilities was relocated.

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Mr. White indicated that this plan evolved over time at BCC but was designed so as not to violate the 1993 Agreement with the Community. In that regard, he testified that BCC sent design drawings to the Community in the fall of 2003 and that the only response received from the Community, of which he was aware, was to ask for and have BCC provide more detailed drawings with an easier to read scale.

He admitted on cross-examination that he was not a member of the tennis relocation committee when the master plan was drafted. He also said that the need for 12 courts surfaced two years ago when BCC determined that they would not operate separate tennis facilities in the City and County. He indicated that there were 25 courts in BCC's City facility. He also noted that BCC recently changed engineers, which meant that the engineers might not have been aware that storm water management designs would be important to the Community. He was doubtful that the date of October 31, 2002, shown in the latest design on Community Exhibit No. 8, was accurate. He noted that the tennis building in the City is approximately 2,700 sq. ft., which housed the tennis pro, the pro shop and the locker rooms, all of which functions would be transferred to the County location as proposed.

Michael Fisher, licensed landscape architect, testified that the date on Community Exhibit No. 8 was in error and should have been the year 2003 instead of 2002. He noted that the revised plan shown as Community Exhibit No. 1 (as compared to Community Exhibit No. 8) refines the tennis courts in the nonconforming area, eliminates the entrance from Mays Chapel Road, and replaces the parking lot between sets of courts on Parcel A with vegetative material. He noted that the storm water management facilities for the final plan have been reviewed and approved by DEPRM. See BCC Exhibit No. 4. He testified that courts #8 and #10 are respectively 20 ft. and 5 ft. in elevation above the nearest residence. The new tennis building is likewise 20 ft. above this home and approximately 240 ft. in lineal distance from the residence. He indicated that a vegetative screen would be maintained between the courts and the residence.

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On cross-examination he indicated that the tennis court would not be lighted. He testified that specific parking is not provided in a country club for each function, such as golf, pool, tennis, etc., but rather an overall parking plan accommodates the many uses of the facility and that parking was adequate for the tennis facilities proposed. He saw no environmental advantage to moving the three courts located in Parcel A toward the other tennis courts and further away from the residences.

Dr. Dow was called as a rebuttal witness. She disputed Mr. White's assertion that the blue highlighted areas on Community Exhibit Nos. 2 and 4 depicted a tennis building. She indicated that she attended the 1993 hearings and that the spokesperson for BCC at the time, Mr. Spellman, testified that that those markings were where spectators could watch the tennis matches. No mention was ever made of a tennis building, nor was this building mentioned in the Agreement between BCC and the Community that was executed in 1993. She opposed the continuing expansion of BCC insisting that the parties signed an Agreement in 1993 for nine tennis courts and this is all BCC is entitled to have. She noted that Section 406 A of the B.C.Z.R. requires tennis facilities to be more than 100 ft. from an RC zoned property and not from a residence. She contends the subject plan violates this provision. Finally, she noted that the 1993 Agreement provides that the Community can require BCC to erect sound barriers to reduce the noise from the tennis facility and she demanded such a noise barrier be installed in this case.

She applauded the change that eliminated vehicular access to the courts from Mays Chapel Road but wanted to make sure that the courts would not be lighted because she can now see the lights from the parking lots, which are much further away. She emphasized that the Community expects the 1993 Agreement to be enforced by the County in this matter and that no more than nine courts should be allowed. She noted that BCC's attorney wrote the Agreement and that there was no mention of the tennis building in the Agreement.

Finally, she noted the extensive correspondence from the Community attorneys to BCC's attorneys in regard to what drawings and designs were provided to the Community pursuant to the

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terms of the Agreement. She also indicated that the Community was not provided with storm water management drawings or designs, which she contends violates the Agreement. On cross-examination she admitted that the Community did not avail themselves of the invitation by BCC to meet and discuss their plans.

Findings of Fact and Conclusions of Law

The testimony and evidence presented indicates the very stormy and suspicious relationship between BCC and the Community that has developed over the past dozen years and continues today. I expressed my concern at the hearing that the matters at issue today were addressed to some degree in zoning and civil cases between the parties in 1993, 1996, 1997 and the subject cases.

Questions Presented

BCC

1. **What are the geographic limits of the nonconforming use found to exist in Case No. 93-37-SPH?**

I understand that as a result of the Agreement between the Community and BCC in Case No. 93-37 SPH, the Community dismissed its appeal to the Board of Appeals. Consequently, the Plat to Accompany that case (Community Exhibit No. 2) would define the geographic limits of the nonconforming area, less Parcels A and B which were denied by the Zoning Commissioner as extensions of the nonconforming use as a country club. Subsequently, BCC filed a request for Special Exception for Parcels A and B, which Plan to Accompany (Community Exhibit No. 4) showed those parcels and the nonconforming area previously granted. I have not reviewed the detailed differences, if any, between these documents but based upon the presentations made, the best geographic description of the nonconforming area is given on Community Exhibit No. 4 and labeled "nonconforming area".

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BCC

2. **Within the context of the provisions relating to the Outdoor Recreational Area in Zoning Case 93-37-SPH, does the Baltimore County Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use as shown on the site plan to accompany this Special Hearing?**

Community

1. **Does the Deputy Zoning Commissioner's decision in Case No. 97-384-SPH, attached hereto (as Exhibit A) require the Baltimore Country Club (thereinafter "B.C.C."), to seek a Special Hearing to determine whether its proposal to construct 12 tennis courts in lieu of 9 courts is permissible? (See present proposal as Exhibit B). The Petitioners' position is that such a hearing is required.**

Now that I have heard the testimony and seen the evidence in the case, I will attempt to expand on the preliminary decision made in the Order on Preliminary Motions. I ruled in the above Order that a hearing was necessary. Said another way, BCC cannot proceed with its plans without a hearing on the overall plan. In that Preliminary Order, I mentioned that I agreed that the proposed plan for 12 tennis courts and a tennis building requires a special hearing even if all meaningful changes are contained within the nonconforming area.

I gave as reasons, that BCC chose to design a tennis court layout that located tennis courts on both special exception and nonconforming areas. This was done presumably for sound engineering and cost reasons. The fact that the three courts were not located solely in the special exception area does not, in my view, support an argument that I should somehow look at the two areas separately. First, from a common sense standpoint this is one plan. Rain falling on the proposed courts and building will not distinguish between the two legal entities. The storm water facilities that process the rain do not distinguish between the two legal entities. Similarly, the parking lot will serve both facilities as well as the new tennis building. I cannot make a rational decision if I separate the two. These are again reasonably one plan.

I would add to this reasoning that BCC has chosen to tie use of both the Special Exception parcel and the nonconforming parcel together having to do with tennis at BCC by entering into the

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1993 Agreement. This Agreement was incorporated into the Order of Case No. 93-388-X. Therefore, we have an Order of the Commission that ties the two together. Having thus joined together, we cannot simply divorce one from the other in this case. This ruling, however, applies only to the limited extent of tennis facilities at BCC.

BCC

3. **Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restrictions on the rights of Baltimore Country Club with respect to the nonconforming use found to exist in Zoning Case No. 93-37-SPH. If so, what are the restrictions?**

I find that no such restrictions save having to have any changes to the Plan to Accompany (Community Exhibit No. 4) reviewed by the Commission.

Community

2. **Is the BCC proposed plan for 12 tennis courts, a tennis building and the elimination of a sound barrier wall in violation of the Agreement of June 14, 1993, between the Petitioners and the BCC (Exhibit C)? Did the BCC fail to provide SWM plans prior to County submission in violation of the Agreement and the Zoning Commissioner's decision incorporating same? The Petitioners position is yes. The Agreement was incorporated in the Deputy Zoning Commissioner's Decision in Case No. 93-388-X and is subject to a zoning determination.**

3. **Does the BCC breach of the 1993 Agreement void the prior SE so that BCC must reapply for a SE?**

6. **Does the breach of the parties' 1993 Agreement (Exhibit C), reopen the Petitioners' issues raised in Case No. 93-388-X?**

The 1993 Agreement between the Parties was incorporated into the Commission's Order in Case 93-388 X. This Commission has no jurisdiction to hear or decide breach of contract cases. That is for the judicial system to consider. Once the Agreement was incorporated into the Order, any breach of the Order is simply a zoning violation to be processed, and adjudicated within the zoning enforcement arm of the Department of Permits and Development Management (PDM). This Commission no longer has jurisdiction to hear or adjudicate zoning violations. This is the exclusive jurisdiction of PDM.

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Consequently, whether BCC violated the Order in failing to supply the proper documents is wholly outside this Commission's present charter. In regard to penalties for such alleged violations, to my knowledge PDM is limited in what penalties it can impose on violators. In any case, I deny the Communities request that the Special Exception granted BCC in Case No. 93-388-X be voided.

That said, I would like to explain to the members of the Community the good and bad news they engage when they enter into a private Agreement which is incorporated into a Commission Order. The good news is that if the developer, petitioner, or in this case BCC, violates the Order, the Community simply calls the County who, after proper investigation, will enforce the Order and impose fines and penalties as the administrative hearing within PDM determines. These fines can be levied on a daily basis and can become very large very quickly and often are enough to convince the wrongdoer to change its ways.

The bad news is that any Order of this Commission is subject to revision upon petition by an interested party. Said another way, a private Agreement cannot bind the government to a specific course, if the County later determines that the change is appropriate. Requests for such changes are routinely considered and approved by this Commission. They often arise because a site plan was approved by the County and the circumstances have changed. Therefore, after public hearing, revised site plans can be and regularly are approved to allow new uses, or additions, or whatever. In this case, the Community asks that the 1993 Agreement be enforced. As a private Agreement, this can only be done by the Courts. As part of a Commission Order it is subject to revision as are all such Orders.

Community

4. **Does the proposal of BCC for 12 tennis courts (Exhibit B) require review by PDM as "development" per Baltimore County Code, §26-168(p)(I) as "the improvement of property for any purpose involving building"? The Petitioners allege that the construction of 12 tennis courts is building and requires development review, as per 1992 development procedure for the initial plan for tennis courts.**

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5. **What is the definition of "development" pursuant to the B.C.Z.R. and does construction of 12 tennis courts meet that definition?**

The definition of "building" given in §26-168 (g) and new code §32-4-101(g) is as follows:

> (g) "Building" means a structure enclosed within exterior walls or fire walls for the shelter, support or enclosure of persons, animals or property of any kind"

Clearly, the tennis courts are not "structures.... for shelter, support or enclosures,...etc." Therefore, within the context of this case, there is no "Development" here requiring processing of development plans. I will leave the intriguing jurisdictional question of whether or not this Commission, rather than PDM, can decide such issues for another day.

Community

7. **Has the BCC exceeded the expansion permitted a "nonconforming" use by the B.C.Z.R., §104 and §104.3. Petitioners submit that it has expanded in violation of §104.3. (Exhibit D)**

8. **If the BCC has exceeded the expansion permitted by §104.3, has it lost its nonconforming status? (§104.1 and §101) (Exhibit D). Petitioners submit that it has lost its nonconforming status.**

9. **Even if the BCC now has a legal nonconforming use, will the construction of three (3) additional tennis courts and thirty (30) parking spaces be an illegal expansion of the nonconforming use?**

BCC argues that this issue is moot because Zoning Commissioner Schmidt, in Case No. 93-37-SPH, has already decided this issue. In that opinion, Mr. Schmidt stated that it was land and not structures which form the basis of the country club use, and that buildings are incidental to the nonconforming country club. The approved plan also specifically allows for adjustments in area and location of other improvements consistent with the nature and scope of the country club use. Consequently, BCC argues that the new tennis courts are allowed under the prior case and I am bound by the doctrine of *res judicata* to follow that decision.

I disagree in part and agree in part with BCC's position. I agree that I am bound to recognize the Order in this case, that BCC has a nonconforming use as a country club with all modifications shown on the site plan (Community Exhibit No. 2). I do not believe that I am bound by the Zoning

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Commissioner's reasoning in how he arrived at the end result. His reasoning merely gives his method for arriving at the decision. I am bound by the decision only. As such, we cannot revisit issues such as enlargement of the clubhouse or that six tennis courts are allowed as accessory uses to the overall country club nonconforming use. However, BCC proposes three additional courts not contained in the original plan which are subject to review in my opinion.

In regard to language on the approved site plan allowing modification and location of buildings and structures, I read these provisions to simply reflect the law of nonconforming uses, that intensifications of nonconforming uses are allowed but that extensions are subject to the 25% rule. As such, I will now make the determination as to whether or not the three additional courts are an intensification or extension.

To determine if the proposed use is an allowed intensification of the use or an extension of the use subject to the 25% rule, one looks to the four part test of *McKemy v Baltimore County*, 39 Md App. 257 (1978). McKemy court states:

(1) to what extent does the current use of these lots reflect the nature and purpose of the original nonconforming use;
(2) is the current use merely a different manner of utilizing the original nonconforming use or does it constitute a use different in character, nature, and kind;
(3) does the current use have a substantially different effect upon the neighborhood;
(4) is the current use a "drastic enlargement or extension" of the original nonconforming use.

If the proposed changes are found to be an extension and not an intensification, one then looks to Section 104.3 which states,

> "No nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of the building so used."

Applying these general principles to this case, I find that six tennis courts were shown as accessory uses in the nonconforming area of Community Exhibit No. 2. BCC wishes to increase the number of courts to nine. (I am ignoring the three courts granted on Parcel A by special exception for this argument.) Applying the McKemy test, I find that the additional three courts are

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not intensifications but rather extensions of the nonconforming uses and subject to the 25% rule. I find this because, while these three additional courts meet the first and second McKemy test, in my view they will have a substantially different effect on the neighborhood and they are a drastic enlargement of the original nonconforming six courts. Courts # 8 and # 9 are respectively 20 ft. and 5 ft. in elevation above and approximately 120 ft. in lineal distance from the nearest residence in the Community. The noise and commotion from matches on these courts will likely have a substantial effect on this property. The storm water from these courts will be felt immediately by this property. Consequently, I find that the three additional courts are subject to the 25% rule.

The next inquiry is whether the proposed "tennis building" is simply an intensification or an extension of the non conforming "structure" shown in blue highlighter on Community Exhibit Nos. 2 and 4. I will call the thing indicated in blue as the "blue structure" hereafter. Mr. White testified that he understood that the blue structure was a one-story tennis building containing 2,900 sq. ft. in area. He testified that BCC merely proposed to move the structure to the west, as now shown on the latest plan, (Community Exhibit No. 8) and to modestly expand the size to 3,300 sq. ft. keeping the one-story configuration. The tennis building would then hold the office and facilities of the tennis pro, pro shop and locker rooms for member using the tennis courts.

Dr. Dow was incredulous. She testified that she attended the 1993 hearings, that the spokesman for BCC, a Mr. Spellman, never described the blue structure in testimony as a tennis building, but rather that it was simply a place from which spectators could watch the tennis matches. There were also no tennis pro, no pro shop, and no locker room presented in the 1993 case or referred to in any way as a tennis building in the 1993 Agreement between BCC and the Community. Mr. White admitted that he only recently was given the committee assignment to move the tennis facilities wholly from the City campus to the subject site and so had no personal knowledge of the original Agreement or case testimony.

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I have no reason to doubt Dr. Dow's testimony. I know that, had there been a "tennis building" even as a gleam in BCC's eye in 1993, that fact would be reflected in the Agreement. It was not. However, I also have no doubt that the blue structure was in fact some sort of building with at least a roof and supporting framework. The symbol on Community Exhibit Nos. 2 and 4 under the blue highlighter indicate this fact. Consequently, applying the *McKemy* test, I find that the new tennis building shown on the plan is an extension of and not an intensification of the blue structure shown in Community Exhibit Nos. 2 and 4 and therefore subject to the 25% rule.

Having determined that both the tennis building and additional tennis courts are extensions, the next problem becomes to determine the basis of what one should take 25% ?

The answer to this question depends in this case on what date applies. The Zoning Commissioner determined in Case No. 93-37 SPH that the law regarding country clubs changed in 1963. He found that BCC had an existing nonconforming use as of this date, but the case in which he made this determination was not heard until 1993. Between 1963 and 1993 obvious changes took place in the physical layout and accessory uses of the property, all of which the Zoning Commissioner approved as intensifications and not extensions of the underlying nonconforming use as a country club.

In the subject case, the Community presented evidence of the extensive additions and changes that BCC has made since 1964. See aerial photographs, Community Exhibit Nos. 15A through 15D. The Community suggests that 1963 is the proper date. However, while 1963 is clearly the date of the start of the nonconforming use, in this case I find that the 1993 plat to accompany the special hearing case (Case No. 93-37-SPH), Community Exhibit No. 2 defines the nonconforming area and uses on the premises as found by the Zoning Commissioner. This is the plat against which one must measure any change.

A second inquiry is, what does the statute mean in this case? Section 104.3 specifies "No nonconforming building or structure and no nonconforming use of a building, structure or parcel of

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land shall hereafter be extended more than 25% of the ground floor area of the building so used." This issue recently arose in another case in which the owner of a one-story nonconforming apartment building added a second floor to the building and then yet another apartment on the side of the first after the date the original apartment became nonconforming. Counsel for the Petitioner argued that the statute specifies that one should consider only the footprint of the nonconforming building. However, this interpretation leads to an untenable conclusion, in my view, where one could add ten stories of new uses above the original footprint of the first floor and never have an extension even though the uses would multiply tenfold. It seems to me that the Council did not intend "first floor area" to mean a precise mathematical definition (area = length x width), but rather they intended this to mean first floor volume. Consequently, adding a second floor to the nonconforming use would violate the 25% rule if the volume added exceeded 25% of the first floor volume.

The statute also specifies that "no nonconforming building or structure and no nonconforming use of a building, structure or parcel of land shall hereafter be extended more than 25%". However, it then goes on to specify the basis for buildings only, that is, "of the ground floor area of the building so used". What then is the basis of an extension of a structure or of land? What description of land or a structure would one multiply 0.25 by to determine if the 25% rule were violated?

One answer that would <u>not</u> make sense, in my view, is to simply say that since no specific basis were given, extensions of land or structures are not limited. In its most extreme interpretation, if nonconforming structures and land were not limited, one could find situations where property that is subject to the regulations is constrained by the law, but nonconforming structures and land are not constrained. This cannot be since nonconforming uses are not favored in law.

Nor can one conclude that accessory uses of a country club are not limited simply because they are accessory. Again, if this were true, a country club could erect a massive tennis facility, which dominates the region. This would violate the very definition of an accessory use or structure that is specified in the B.C.Z.R. as follows:

"A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure."

I think that the proper interpretation of the statute that will give meaning to all of the words therein is to simply say that structures and land of nonconforming uses may not be extended more that 25 % of the area of land or 25% of the volume of structures.

Applying these general principles to this case, I find that six tennis courts were shown as accessory uses in the nonconforming area of Community Exhibit No. 4. BCC wishes to increase the number of courts to nine. This is a 50% increase that violates the 25% rule. Only one additional tennis court is allowed.

Regarding the tennis building, I have no doubt that the area for this structure is approximately 2,900 sq. ft. and the new tennis building shown on the latest plan is approximately 3,300 sq. ft. as Mr. White indicated. There would then be a 400 sq. ft. increase, which is only 14% of the approved structure. Consequently, I conclude that this structure does not violate the 25% rule as an extension of the 1993 blue structure. Nor does relocating it to a more useful location violate the rule. In fact, its new location allows BCC to control access to the court in a meaningful way, eliminates the access road and parking between the courts and presents a far superior design as to what was shown in the 1993 site plan.

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Community

10. **Pursuant to the authority in §500.7, the Zoning Commissioner must interpret issues posed related to the Zoning Regulations, and specifically §1A00, General Provisions for all R.C. classifications, the intent of which, pursuant to §1A00, requires the Zoning Commissioner to "protect both natural and man-made resources from compromising effects of specific forms and densities of development;" and specifically, §1A04.B.3, the R.C. 5 Zone to "assure that encroachments onto production or critical natural resource areas will be minimized," the Petitioners pose the following questions;**

    A. **Does the proposed development conflict with §1A00.2.C and §1A04.B.3 by failing to protect natural resources because the project is designed in a manner necessitating a variance to the forest buffer regulations designed to protect streams and also it fails to incorporate the channel erosion prevention and water quality protection provisions of the 2000 Maryland Storm Water Design Manual? (See attached Affidavit of Bowers as Exhibit No. E)**

    B. **Has the BCC failed to demonstrate compliance with §1A04.B(3) not minimizing encroachment into the forest buffer?**

    C. **The Zone of the subject site requires protection of the natural resources. §14-432 of Article IX prohibits intrusion into the forest buffer. The BCC proposes such intrusion, but no evidence of feasible alternatives is presented. (§14-334b). This Petition requests determination by the Zoning Commissioner that the proposed project violates the aforesaid Zoning Regulations.**

    D. **Whether §14-403(b) o the Development Regulations permits BCC to avoid the need to comply with written forest conservation requirements by exempting tree clearance below 40,000 sq. ft.? Petitioners do not believe this Regulation allows BCC to be exempt.**

    E. **Whether the BCC must comply with the MDE 2000 Maryland Storm Water Design Manual? The existing storm water facilities were designed and approved in 1996; the new Design Manual was adopted in 2000 and the BCC project is not consistent with any of the exempted activities in §14-155 of County Storm Water Management Regulations; the project fails to drain all impervious surfaces to a storm water management resource; nor does it comply with the requirements applicable to redevelopment projects per §14-155©. This Petition requires a determination by the Zoning Commissioner that the proposed project violates the aforesaid Zoning Regulations. (See Exhibit No. E).**

The Community determined not to present evidence in regard to these questions at this hearing and, therefore, I find that there is no evidence to indicate that the proposal violates any environmental regulations.

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Community

11. **Has the Special Exception for the Boyce parcel expired since its granting by the Zoning Commissioner. Has BCC lost its SE because it failed to timely act upon the SE and that circumstances have changed in the eleven (11) years since it was granted?**

As answered in the Motion to Dismiss, I find that the Special Exception granted previously on Parcel A has not expired.

BCC

3. **Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restrictions on the rights of Baltimore Country Club with respect to the nonconforming use found to exist in Zoning Case No. 93-37-SPH. If so, what are the restrictions?**

None other than changes to the approved plan require a hearing.

4. **If the Zoning Commissioner determines that Zoning Case No. 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.**

I approve the BCC plan for the tennis area shown as Community Exhibit No. 8 with Tennis Courts 8 and 9 eliminated.

Community

The Community raised the issue of whether or not the proposed plan violates the setback requirements of Section 406 A regarding tennis facilities, specifically Section 406A3 which requires tennis facilities to be set back 100 feet from any RC zoned property.

The additional three courts are within the nonconforming area of the plan and in particular are accessory uses to the nonconforming country club which Mr. Schmidt approved in case 93-37 SPH. In that sense, they are extensions of the allowed nonconforming use. They are not new tennis facilities, which require that they comply with Section 406.A3 any more than any nonconforming use is required to comply with regulations imposed after nonconforming status is established.

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Summary

I find that the proposal to increase the number of tennis courts from six to nine in the nonconforming area of the property is not an intensification but rather an extension of the nonconforming accessory use recognized in Case No. 93-37-SPH. I further find that the proposal violates the 25% rule given in Section 104.3 of the B.C.Z.R. and that only one additional tennis court may be built.

I find further that the blue structure, shown on Community Exhibit Nos. 2 and 4, was a structure of 2,900 sq. ft. which was recognized by the decision of the Zoning Commissioner in Case No. 93-37-SPH, that the proposed tennis building shown on Community Exhibit No. 8 is an extension and not an intensification of the blue structure, and, therefore, subject to the 25% rule. I further find that the proposed tennis building, however, does not violate the 25% rule as presented.

I approve BCC's plan for the tennis area, as shown on Community Exhibit No. 8, with Tennis Courts 8 and 9 eliminated.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and for the reasons given above, the special hearing request shall be granted.

THEREFORE, IT IS ORDERED, by the Deputy Zoning Commissioner for Baltimore County, this 22 day of October, 2004, that the Special Hearings requested in Case No. 04-508-SPH, filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED to the extent that the proposed additional three tennis courts are extensions of the previously approved nonconforming accessory use and violate the 25% rule against such extensions; and

IT IS FURTHER ORDERED, that the Special Hearing requested in Case No. 04-600-SPH, filed pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.), be and is hereby GRANTED to the extent that one additional tennis court and the new tennis building may

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be constructed on the site; subject, however, to the following restrictions which are conditions precedent to the relief granted herein:

1. The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition;

2. BCC shall erect a sound barrier between the tennis courts and adjacent residents and shall submit a landscape plan which screens the tennis courts to the Office of Planning for review and approval prior to the issuance of any building permits; and

3. When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

IT IS FURTHER ORDERED, that BCC's plan for a tennis facility as shown on Community Exhibit No. 8, eliminating Tennis Courts 8 and 9, be and it is hereby GRANTED; and

IT IS FURTHER ORDERED, that the terms of the Deputy Zoning Commissioner's Order in Case No. 93-388-X, not modified herein, are fully in force and effect.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

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Date 10/22/04
By Ray

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

October 22, 2004

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Petitions for Special Hearing
Case Nos. 04-508-SPH & 04-600-SPH
Property: 11500 Mays Chapel Road

Dear Messrs. Barhight, La Fiandra & Holzer:

Enclosed please find the decision rendered in the above-captioned cases.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Enclosure

c: Michael Stott, Baltimore Country Club of Baltimore City, 4712 Club Rd., Baltimore, MD 21210
Michael Fisher, 14307 Jarrettsville Pike, Phoenix, MD 21131
W. Daniel White,, 2103 Fox Trail Ct., Reisterstown, MD 21136
Deborah & Frederick Terry, 747 Bomont Road, Timonium, MD 21093
Donna Dow, M.D., 721 Bomont Road, Timonium, MD 21093
Joseph R. B. Tubman, 11431 Mays Chapel Rd., Timonium, MD 21093
Courtney Spies, Jr., 722 Bomont Rd., Timonium, MD 21093
Marvin Tenberg, Vice-President, Falls Road Community Assoc., 12206 Boxer Hill Rd., Cockeysville, MD 21030

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10/4/04

IN RE:	PETITION FOR SPECIAL HEARING	*	BEFORE THE
	N/S of Bomont Road at its Intersection	*	DEPUTY
	With Mays Chapel Road	*	ZONING COMMISSIONER
	8th Election District		
	2nd Councilmanic District	*	OF
	(11500 Mays Chapel Road)		
		*	BALTIMORE COUNTY
	PETITION OF:		
		*	Case No.: 04-508-SPH
	Deborah Terry, et al.		(filed by D. Terry, et al.)
	(referred to herein as	*	Case No.: 04-600-SPH
	"Community")		(filed by BCC)
		*	
	Baltimore Country Club		
	of Baltimore City,	*	
	Legal Owners and		
	Petitioner (referred to	*	
	Herein as "BCC")		
		*	

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ZONING COMMISSIONER

* * * * * * * * * * * * *

MEMORANDUM OF COMMUNITY PETITIONERS'
IN LIEU OF FINAL ARGUMENT

Deborah Terry, et al., Petitioners, hereinafter referred to as "Community" submit this Memorandum to Support its position in Case No.: 04-508-SPH and in response to the Petition filed by BCC, known as Case No.: 04-600-SPH, by and through ***J. Carroll Holzer, Esquire,*** Holzer & Lee, and says:

STATEMENT OF THE CASE

The Community Petitioners filed a Petition for a Special Hearing with the Deputy Zoning Commissioner of Baltimore County as a result of a long and storied history between the Community and the Baltimore Country Club,

hereinafter ("BCC"). The Community raised twelve (12) issues in its Special Hearing Petition. The Community is not abandoning any of the issues, but will specifically focus its comments on a reduced number as follows:

1. Does the Deputy Zoning Commissioner decision in Case No.: 97-384-SPH require BCC to seek a Special Hearing to determine whether its proposal to construct twelve (12) tennis courts in lieu of nine (9) is permissible?

2. Is the BCC proposed Plan for twelve (12) tennis courts a tennis building and parking in violation of the Agreement between the parties of June 14, 1993?

3. Does the BCC breach of the 1993 Agreement void the prior Special Exception so that the BCC must reapply for the Special Exception?

4. Does the proposal of BCC for twelve (12) tennis courts require review by the County Department of Permits and Development Management per the Baltimore County Code §26-168(p)(i)?

5. What is the definition of "development" pursuant to the Baltimore County Zoning Regulations and does the construction of twelve (12) tennis courts and a building meet that definition?

6. Does the breach of the Parties' 1993 Agreement reopen the Petitioners' issue in Case No.: 98-388?

7. Has the BCC exceeded the expansion permitted a non-conforming use by the BCZR §104 and 104.3?

8. If the BCC has exceeded the expansion permitted by 104.3, has it lost its non-conforming status?

9. Even if the BCC now has the legal non-conforming use, will the construction of twelve (12) tennis courts and an additional building be an illegal expansion of the non-conforming use?

10. Environmental Issues A through E?

11. Has the Special Exception for the Boyce Parcel expired since its granting by the Zoning Commissioner? Has the BCC lost its Special Exception because it failed to timely act upon the Special Exception?

After the filing of the Community's Petition for Special Hearing, the BCC filed its own Petition for Special Hearing and raised the following questions:

1. What are the geographic limits of the non-conforming use found to exist in Case No.: 93-37-SPH?

2. Within the context of the provisions relating to the outdoor recreational area in Zoning Case No.: 93-37, does BCC have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the non-conforming use?

3. Whether the Zoning Commissioner's Finding of Fact and Conclusions of Law and Order in Zoning Case No.: 97-384-SPH oppose any restrictions on the right of BCC with respect to the non-conforming use?

4. If the Zoning Commissioner determines that Zoning Case No.: 97-384 requires a public hearing to approve the configuration of the tennis area as shown on the Site Plan, then BCC seeks approval of the configuration of the tennis area as shown on the Site Plan to accompany this Special Hearing.

The Hearing was held before the Deputy Zoning Commissioner on July 15, 2004, August 20, 2004, and finally September 3, 2004.

HISTORY OF THE BCC – COMMUNITY RELATIONSHIP

The first chapter of this continuing battle between the BCC and the Community began with Case No.: 93-37-SPH. In their Petition for a Special Hearing, BCC requested approval of "an existing non-conforming Country Club and modifications." The Club, at that time in 1993, was improved with a Clubhouse, two (2) – 18-hole golf courses, a practice range, swimming pools, comfort stations, rain shelters, maintenance building and a staff residence. In their request in 1993, they requested additional permission to construct nine (9) new tennis courts, and to relocate existing parking area. In addition, they had acquired a residentially zoned piece of property owned by the Boyce family (hereinafter "Boyce Property"), and proposed to annex that property to the existing 406 acres to form a 409 acre tract, all alleged to be non-conforming.

Because of the close proximity of the Boyce Property to the adjacent residents, the residents appeared and protested the relief requested by BCC.

In fact, the Protestants raised the issue of whether or not there existed any non-conforming use at all by BCC based upon certain information provided that the Club had torn down its clubhouse and mansion, relocated it and expanded its size and configuration. The Community filed a Memorandum in Case No.: 93-37A before the Zoning Commissioner (see Exhibit A).

One of the reasons that the Community questioned the legitimacy of the non-conforming status of the Club was a Memorandum from the Office of Planning dated October 28, 1992 (Community Exhibit #11) and attached hereto as Exhibit B. In this document, the Planning Office questioned the application of the twenty-five percent (25%) rule of the ground floor area of buildings. The Planning Office asked for a "timeline" showing the dates of construction and size of all buildings on the site in order to determine the amount of expansion left under the twenty-five percent (25%) rule." The Protestants, in their Memorandum, (Exhibit A), raised the issue about the lack of information provided by the Club concerning the expansion over the years of the BCC to its present size and capacity. Jack Dillon, who was then with the Office of Planning and Zoning testified that the non-conforming use may well have been lost based upon the demolition of the then existing Clubhouse as well as the potentially improper expansion over the twenty-five percent (25%) rule. This position was further reinforced by Norman Gerber, former Planning Director, who testified on behalf of the Community to similar concerns.

The Zoning Commissioner in Case No.: 93-37 (also marked as Community Exhibit #3 and attached as Exhibit C), then interpreted §104.3 of the BCZR in regard to the expansion of non-conforming uses by twenty-five percent (25%) of the ground floor area of the buildings used. He concluded that the twenty-five percent (25%) rule did not apply to the buildings on the Club but the land and that the footprints of the existing building did not preclude the finding of non-conforming use. Finally, he did acknowledge that it was impossible to add "new land" to the non-conforming use and denied the use of the Boyce tract as such.

An appeal was then filed by the Protestants to the County Board of Appeals challenging the interpretation of the Zoning Commissioner in regard to the non-conforming issue and the twenty-five percent (25%) rule in Case No.: 93-37.

A Petition for Special Exception was then filed by BCC for the two (2) parcels A and B. Parcel A being known as the Boyce Property. The Club proposed to improve the Boyce Property by adding three (3) tennis Courts and twelve (12) parking spaces shown on their Plat.

Again, the Community rose to the occasion, appeared and opposed the request of the Club in Case No.: 93-388-X, marked as Community Exhibit #5A, attached hereto as Exhibit D. The Deputy Zoning Commissioner on June 23, 1993, approved the request subject to the terms of an Agreement which had been worked out between the Community and the BCC. The Agreement was dated

June 15, 1993 and was incorporated into the Deputy Zoning Commissioner's Order. The Agreement between BCC and the Community called for a limitation of nine (9) tennis courts as noted in paragraph 2 of the Agreement and shown on the attached plan. (herein attached as Exhibit E).

The Agreement between the Club and the Community was intended to settle and resolve both the appeal before the Board of Appeals of the Zoning Commissioner's decision of March 5, 1993 and Case No.: 93-388-X. The Agreement called for modifications to the Country Club, i.e., the Clubhouse and other facilities, addition of new parking areas and the construction of nine (9) new tennis courts. The Agreement recognized the concern of the Community to "potential sound and visual impact of the proposed additional tennis courts and relocated parking facilities adjacent to said tennis courts and the possibility that the Boyce parcel may be used for purposes other than for a single-family residence, three (3) tennis courts and twelve (12) parking spaces." The terms of the Agreement can easily be read by the Deputy Zoning Commissioner. Suffice it to say that on two (2) occasions since 1993, the Community has felt that they were not properly notified by the Club of various proposed changes to the Club's plan and that the changes violated the Agreement between the parties limiting the tennis courts to nine (9).

In 1997, the Community felt compelled to file a Petition for Special Hearing, Case No.: 97-384-SPH, marked as Community Exhibit #7 (attached hereto as Exhibit F). The Community raised seven (7) issues as to whether or not the Club had forfeited the relief granted in prior Case No.: 93-388 and/or whether there had been a violation of the relief granted in prior Cases 93-388-X and 93-37-SPH. The Community raised the issue and believed that the Special Exception granted in 93-388 had not been utilized in two (2) years. The same issue has been raised in the instant case and is not abandoned. The Deputy Zoning Commissioner found that it had been utilized. The Community then raised issues that the Boyce Property was to be utilized for tennis courts facilities that differed from that approved in Case No.: 93-388, based upon a drainage area map that had been submitted by BCC to Baltimore County. The Deputy Zoning Commissioner, on that issue, found that the request for a ruling was "a bit premature," however he did determine that if BCC decided to alter the design and configuration of the nine (9) tennis courts and related accessory parking that a Special Hearing to approve same would be necessary. The BCC acknowledged through testimony that the storm water management plans had not been submitted to the Community and that in fact was a technical violation of their Agreement. The Deputy Zoning Commissioner found that while it was technically a breach, it was remedied when it became known to the BCC.

The Community presented a brief Memorandum concerning their belief that the BCC attempted to bypass the Agreement (attached as Exhibit G).

While the 1997 case ended for the moment, the zoning battle between the Community and BCC shifted to an intervening civil law suit filed by the Community against BCC for damages caused to their private road (Bomont Road) and properties that serves the residences and neighbors of BCC. This case resulted in a dollar judgment in favor of the Community.

STATEMENT OF FACTS

The history between the parties, having been set forth above, brings us to the current case in which the Community again initiated action by filing a Petition for a Special Hearing.

In their Special Hearing request, the Community, through Case No.: 04-508-SPH again believed they had again not been apprised of the Club's true intentions and that the Club planned to construct twelve (12) tennis courts in lieu of the nine (9) defined by the Community's Agreement, as well as a tennis building and other questions presented in the Statement of the Case.

The Club immediately responded by filing its own Petition for Special Hearing in Case No.: 04-600-SPH.

PRELIMINARY MATTERS

On Day 1, July 15, 2004, the parties agreed to proceed with both cases being tried together before the Deputy Zoning Commissioner, John Murphy. The parties also agreed that a Court Reporter would transcribe the official Record of the proceedings.

BCC then raised three (3) issues by preliminary motion. First, that the Deputy Zoning Commissioner dismiss Question #10 proposed by the Community with its subparts. Second, BCC requested dismissal of Question #11 posed by the Community as to whether or not the BCC Special Exception granted in Case No.: 93-388 had expired because it was barred by *res judicata*. BCC's third issue involved whether a Special Hearing was required to modify the non-conforming County Club granted in Case No.: 93-377. Both the Community and BCC submitted Memoranda supporting their respective positions.

On August 19, 2004, the Deputy Zoning Commissioner passed an Order concerning these preliminary motions.

On the second day of hearing – August 20, 2004, the BCC took exceptions to the Deputy Zoning Commissioner's rulings as to the first and second issue and the Community took exception to the ruling concerning its Question #11. The DZC's ruling as to the Community's environmental Question #10, subparts A through E, found that the question of whether the new plan conforms to

environmental regulations is essential to the health, safety and welfare of the Community and was relevant for him to consider. The finding of the DZC was that Question #10 inquires as to whether the Plan to build twelve (12) tennis courts and tennis buildings must meet or does meet environmental regulations, which would be reasons to deny the Special Hearing.

The DZC ruled on the Motion as to whether a Special Hearing was required pursuant to Case No.: 97-384-SPH. The finding was that the Deputy Zoning Commissioner Kotroco's decision in that case required any modification to either plan to have a hearing to determine the impact on the Community. Therefore, this ruling which required a Special Hearing for the new Plan proposed by BCC likewise brought into play the questions posed by the Community in Question #10.

Finally, the DZC ruled that Question #11 challenging the use of the Special Exception by the Country Club was barred by *res judicata* unless there was fraud, mistake or irregularity. To that ruling, the Community took exception on the Record and preserved the Community's right to raise it in any subsequent proceeding.

TESTIMONY AND DOCUMENTARY EVIDENCE

A. Community Presentation –Donna Dow, M.D. testified on behalf of all of the Community Petitioners. Dr. Dow first testified in regard to the zoning history and the Community's opposition to the non-conforming use request in

Case No.: 93-37-SPH. She testified from that decision the neighbors appealed the interpretation of the Zoning Commissioner to the Baltimore County Board of Appeals. She testified that when BCC sought Special Exception for the Merrick & Boyce parcels in Case No.: 93-388-X, again the Community opposed the request until the Community dropped its opposition to the appeal of the non-conforming use determination and the Special Exception as a result of the Agreement between the two (2) parties.

She testified about the Agreement for the nine (9) tennis courts and the Plan as set forth and incorporated into the Agreement.

She then testified concerning the actions of BCC when it constructed its new parking lot in 1996-97which caused a sediment problem for Bomont Road in December, 1996. That incident resulted in litigation in the Circuit Court that resolved the matter in favor of the Community.

Dr. Dow then testified in regard to the Community petitioning for Special Hearing in Case No.: 97-384 when the neighbors objected to a new Plan for a tennis facility and questioned the Club's breach of their Agreement. She testified that while Mr. Kotroco, the DZC, determined that the Special Exception had been utilized by BCC extending water to the Boyce house, that she did not believe that was a correct finding.

Dr. Dow then testified concerning each of the questions posed in the Community's Petition as follows:

1. She believed that Case 97-384 required BCC to ask for a Special Hearing to approve any change in the original Plan for nine (9) courts. She objected to the fact that the neighbors had to be adversarial and file for such a Petition to obtain the preliminary ruling in this case as opposed to BCC filing for such a hearing on their own as required by the Decision in the prior case.

2. She testified that the Agreement between the parties had been violated in a number of ways:

First, that the Agreement permitted only nine (9) tennis courts to be built and that BCC had indicated their intention to only build nine (9) courts on the Site Plan as originally proposed and in the language of the Agreement. She testified that the current Plan showing twelve (12) tennis courts adds a tennis building and shows no provision for the sound barrier walls specified in the Agreement. She further testified that BCC breached the Agreement again, as in 1996, by failing to provide the storm water management plans to the neighbors prior to their submission. Further, that Site Resources submitted a storm water management drainage area study which Plan was found by the neighbors in the County files in March, 2004. It had never been provided by the BCC to the neighbors as required by the Agreement. She testified that the BCC

provided the neighbors with a building permit plan which *differed* from the drainage area map plan. She further testified that the private Agreement between the parties obligates the BCC to comply with current government regulations. She believes that the Plans presently submitted do not comply with the 2000 revised storm water management regulations according to Keith Bowers, the expert who submitted his Affidavit attached to the Petition for Special Hearing in this case. She further raised the issue that the current Plan appears to violate Zoning Regulations which states that no tennis facility can be within 100 feet of an RC boundary line (§406A of the BCCR). Tennis courts #8 and #9 are less than 100 feet from the Spies property line (zoned RC 5) and should be eliminated.

3. Dr. Dow testified that in her opinion, the breach of the 1993 Agreement by BCC voided the prior Special Exception granted by the DZC, Kotroco.

Dr. Dow testified that in her opinion she believes the present Plans constitutes development which requires review by the County. She believed that the Baltimore County Code, §26-168(p)(i) requires review by PADM for the construction of the twelve (12) tennis courts and tennis buildings. She noted that the 1992 "development" required development review at that time.

4. Dr. Dow opined in regard to Community Question #6 that she believes the breach in the parties' 1993 Agreement reopens all of the issues raised in Case No.: 93-388 and 93-37 on the basis that both of those cases were resolved not by final litigation of the issues, but by Agreement of the parties incorporated into the DZC Order. Because that Agreement has been breached, the Community's position is that all of the issues raised and not finally litigated by the Board and the Courts are subject to review in this case.

5. Dr. Dow then testified in regard to Community issues #7, #8 and #9 related to the question of whether the BCC has exceeded the expansion permitted for a non-conforming use and/or lost its non-conforming status as a result of its activities.

She testified that she believed expansion of the building areas has been greater than twenty-five percent (25%) since September 26, 1963, the date that Commissioner Schmidt established as the beginning of the non-conforming period. She testified the original Clubhouse was razed and a larger Clubhouse built, a new maintenance building has been added, other buildings have been enlarged and aerial photos document this expansion. She testified that the Zoning Regulations refer to building area and not land area. She introduced a Memorandum from OPZ dated October 28, 1992, stating that the building area was the critical information required under the twenty-five percent (25%) rule.

She further argued that the planned tennis courts, building and parking exceeds the allowed percentage of expansion. Finally, she argued that since non-conforming uses are not favored, expansion beyond the allowed limits violates the Zoning Regulations and the non-conforming use should be lost.

6. Dr. Dow, in regard to Question #10, the environmental question and its subparts, believed that the environmental review now being taken is wrong. She cited a Memo from DEPRM, EIR Section, dated March 28, 1997, which stated that the BCC would be subject to forest conservation regulations, and now the Club is pursuing an exemption. BCC does not qualify for an exemption under the Forest Conservation Regulations. Their development plan spans two (2) parcels. BCC has filed for a single lot exemption, which is incorrect. She cited the Memorandum from DEPRM dated August 10, 1995, which raised concerns about environmental conditions and storm water management. She then testified that the environmental conditions impacting the neighborhood have continued to worsen since 1995 and that the storm water management regulations governing development have changed in the year 2000. She then referred to the Affidavit of Keith Bowers, which was dated April 6, 2004, submitted as part of the Petition for Special Hearing, "Attachment E" which justified Dr. Dow's opinion that there were environmental problems posed by the activities of the BCC.

7. In regard to evidence related to the failure of the BCC to utilize their Special Exceptions within a timely fashion, based upon the preliminary ruling by the DZC, the issue was not pursued by way of additional testimony; however, the Community does not abandon this issue.

Finally, the Community presented as Community Exhibits #12, #13 and #14 the entire files obtained from PADM in Case No.: 93-37-SPH, 93-388-X, and 97-384-SPH.

B. **BCC**. The BCC, in an effort to address the Petition for Special Hearing required by the DZC Order, presented Dan White, a member of the BCC and in charge of the Master Plan for the proposed tennis facility. He testified that the Club desires to move all of its tennis operations from its city location to Five Farms in the County. He testified that the tennis committee believed it needed twelve (12) courts for inter-club play. He testified that they relocated the "tennis building" to control access of the Club members to the site. The Club next presented Mike Fisher, a licensed landscape architect with Site Resources. He testified that his firm prepared the Site Plans for the tennis courts, seven (7) of which would be below the pool area, two (2) courts would be even lower and three (3) courts on the Boyce property. He testified as to the location of the buildings, courts and parking and the differences between the old Plan and the new Plan. He testified about the distance from courts #8 and #10 to the Spies' property. Fisher testified in his opinion that there would be no impact on the Community.

C. **Community Rebuttal.** Dr. Dow again testifying for all the members of the Community, rebutted the testimony of the BCC witnesses. She reiterated that the tennis facilities are being constructed within 100 feet of an RC boundary line and did not believe that issue had been addressed in previous cases. She testified again about the concerns of the storm water management and the tennis development on Bomont Road and its two (2) culverts. She questioned the amount of clearing involved. She raised issues related to noise concerning all, the Bomont Road residences and the Tubman property as well. She testified in regard to hearing noises from the swimming pool and related facilities already with the P.A. system. She testified she could hear the two (2) dumpsters and trash pick-up at 6:00 a.m. in the morning. She testified in regard to the maximum number of people who could be using the courts simultaneously as forty-eight (48) people. Such increase is bound to aggravate the existing noise. She testified as to the potential increase in traffic to these events. She testified that while the courts are not supposed to be lighted, the present lighting on the Country Club is 6,300 watts of light from 1996 and it can be seen all night long. She objected to the potential trash that will be generated at the site and the financial impact on the value of the residents' property adjacent to the Country Club.

Dr. Dow testified that the 1993 plan did not contain a tennis building but a grandstand. This also was the testimony of Paul Spellman for BCC in 93-37 SPH. Also, testimony is documented in the 97-384 SPH Transcript that the

original plan contained a grandstand, not a tennis building. The DZC needs to enforce the Agreement with only nine (9) courts and no tennis building.

She requested Mr. Murphy to enforce the prior Agreement, which called for a limitation of nine (9) courts and requested that he deny this Special Hearing request for increased development on the Club property. She requested that the year 2000 storm water management regulations be required of this project.

Dr. Dow formally requested a sound barrier which was supposed to be constructed by the Club. The Club had indicated that the Community never asked for the wall and that is why it was not shown on the Plan. Dr. Dow then formally asked on the Record for the wall to be constructed and shown on the Plan.

QUESTIONS PRESENTED

In addition to the Questions Presented in the Petition for Special Hearing, the Community suggests the following issues:

1. **Issue No. 1.** The DZC having required the BCC to request a Special Hearing for twelve (12) tennis courts in lieu of nine (9), (Per Community, Question #1), should the DZC grant the BCC request? **Answer:** No.

2. **Issue No. 2.** Should the BCC be required to comply with the terms of the Agreement reached with the Community, dated June 14, 1993? **Answer:** Yes! Whether or not the DZC grants the Special Hearing request for twelve (12) tennis courts, the DZC should then consider whether or not the non-conforming use by the Club should be revisited as to the status of the Club's non-

conforming use, and the permitted percentage of expansion because the Community abandoned their disagreement with the Zoning Commissioner's decision concerning that issue before the County Board of Appeals by executing the Agreement for a limitation of nine (9) tennis courts. If that Agreement is abrogated, then the percentage of expansion should be revisited and the DZC require proof as requested by the Planning Office in 1992 as to the building area expanded over the course of the years by the Club as well as a determination if the nine (9) tennis courts exceeds the permitted twenty-five percent (25%) expansion.

3. **Issue No. 3.** The DZC should refer this project to DEPRM for another complete storm water management review and an environmental review.

4. **Issue No. 4.** Must the BCC comply with the Baltimore County Zoning Regulations §406A, requiring 100 foot separation between RC boundary lines and courts number #8 and #9?

LEGAL ARGUMENT

Non-Conforming Use Law in General

A non-conforming use is defined in §101 of the Baltimore County Zoning Regulations as "legal use that does not conform to a use regulation for the zone in which it is located or to a special regulation applicable to such a use. A specifically named use described by the adjective 'non-conformity' is a non-conforming use."

Furthermore, non-conforming uses are governed by §104 of the Baltimore County Zoning Regulations. Section 104.1 provides for a continuation of a non-conforming use, except as otherwise specifically provided in these Regulations, provided that upon "...any change from such non-conforming use to any other use whatsoever, or any abandonment or discontinuance of such non-conforming use for a period of one year or more, the right to continue or resume such non-conforming use shall terminate." Furthermore, §104.3 of the BCZR provides that "o non-conforming building or structure and no non-conforming use of a building, structure or parcel of land shall hereafter, be extended more than twenty-five percent (25%) of the ground floor area of the building so used."

Non-conforming uses are generally not favored by the law, and Maryland Appellate Courts have consistently held that non-conforming uses pose a threat of an orderly zoning scheme and can limit the effectiveness of land use control. See *Prince George's County v. E. L. Gardner*, 293 Md. 259 (1982); *Trip v. Mayor and City Council*, 151 Md. App. 167 (2003). In *Gardner*, the Court found that non-conforming uses do limit the effectiveness of land use control, contribute to urban sprawl and peril the success of the Community Plan and injure property values.

For a general understanding of non-conforming use and the limitations thereon, see *American Law of Zoning*, Chapter 6 entitled "The Creation, Limitation and Termination of Non-conforming Uses." Section 6.01-6.07 provide

a background discussion for non-conforming uses and §6.45-6.53 provide for a discussion with regard to the extension of non-conforming uses. Consistent with those discussions, it is clear that while there may be a right to a continuation of a non-conforming use, it does include a right to extend or enlarge it. This appears to be the rule whether or not the municipal corporation is adopting an ordinance which specifically limits the right for the non-conforming user to enlarge or extend its use. Courts have ruled that expansion of a non-conforming use offends the spirit of Zoning Regulations and the stated purpose of the Regulations to ultimately eliminate the non-conforming use.

A review of *Anderson*, §6.47 discusses unlawful extensions or enlargements of non-conforming uses and in §6.50 *Anderson* comments on the Maryland case of *Phillips v. Zoning Commissioner of Howard County*, 225 Md. 102 (1961).

Furthermore, the cases of *McKinney v. Baltimore County*, 39 Md. App. 257 (1978) and *County Commissioners v. Zent*, 86 Md. App. 745 (1991) further discuss non-conforming uses and the question of extension verses intensification.

It is clear from the zoning history of this conflict between BCC and the Community that the question of expansion over the years of the BCC and the degree of that expansion in which it affects the health, safety and welfare of the adjacent community has been a source of contention. While the Zoning

Commissioner in Case No.: 93-37-SPH denied non-conforming use on the Boyce property, it did permit expansion of tennis facilities as part of the non-conforming use. The Zoning Commissioner's decision in 93-37 also interpreted the permitted expansion of the Club in a way that related to the land versus the stated permitted expansion under BCZR 104.3. The Zoning Commissioner disregarded the interpretation of the Planning Office and did not require BCC to present any evidence in regard to the building area and size on the site as it was when it was non-conforming compared to its current size. That interpretation was appealed by the Community *de novo* to the Board but subsequently dismissed based upon the Settlement Agreement between the parties. The question of the illegal expansion of the BCC is still relevant based upon the ultimate determination by the DZC of the questions presented below. It should simply be kept in mind that if the ultimate goal is to eliminate non-conforming uses, the continued expansion of the tennis facilities is relevant to this case.

Issue No. 1. The DZC having required the BCC to request a Special Hearing for twelve (12) tennis courts in lieu of nine (9), (Per Community, Question #1), should the DZC grant the BCC request? Answer: No.

The Community respectfully requests the DZC to deny the Special Hearing request of BCC for twelve (12) tennis courts. It is clear from the testimony of Dr. Donna Dow that since 1993, the Community has been extremely concerned

about the negative impacts of the proposed tennis courts, parking lots and tennis building being so close to the adjacent neighbors. Mr. Tubman resides across from the Club and the tennis courts on Mays Chapel Road. The remainder of the Community resides on both sides of Bomont Road which is a private road. Some of the lots, including the Spies property, back up to the proposed tennis facilities and parking area. The houses of the Community already can see the lighting from the Country Club and parking area and hear the noise and are affected by storm water concerns emanating from the County Club site which cross Bomont Road and cause flooding problems. The history between the Club and the Community is replete with examples of the disregard for the Community and the negative impact of the Club upon the Community. Dr. Dow's testimony was that in an attempt to resolve the issues between the two groups, they entered into the private Agreement in 1993, which the Community hoped would put to rest the number of tennis courts, their location and the parking areas. Two times since then, the neighbors have had to request Special Hearings through the Office of the Zoning Commissioner in 1997 and now in 2004 to interpret and resolve conflicts between the Club and the Community. This matter would not have been revisited in either 1997 or currently if the Club were consistent in its Plan to locate the tennis courts in the areas agreed upon and proposed only nine (9) tennis courts instead of twelve (12).

For all of those reasons, the Community respectfully requests the Hearing Officer to deny the BCC Plan for twelve (12) tennis courts regardless of the alleged need of the Club to hold infrequent tournaments utilizing twelve (12) courts. Since the additional courts are on the non-conforming use portion of the property, there is clear law against illegally extending new activities, products or services in a non-conforming use. Section 6.49 of *American Law of Zoning* suggests multiple examples where the right to *continue* an non-conforming use does not include the right to expand it through the addition of new products or services. For example, non-conforming restaurant which commenced the sale of beer was held to have illegally extended its use. *Fulford v. Board of Zoning*, 54 So. 2d 580 (1951), the same result was reached where a restaurant which sold beer added liquor to its stock and trade. *State, Exrel Chatlos v. Rowland*, 32d Atlantic 2d 785 (1944), the same effect occurred when a restaurant became a discotheque, *Belleville v. Parrillos, Inc.*, 416 Atlantic 2d 388 (1980), also a non-conforming theater added an electronic game room which was found to be illegal. *Daley v. Zoning Hearing Board*, 461 Atlantic 2d 347 (1983). Here, had the parties not reached a settlement, the extension of the Country Club into a tennis operation would well have fit within the definition of the above-cited cases of expansion of non-conforming use. Since the Agreement between BCC and the Community was entered into accepting nine (9) tennis courts, the Community is not objecting to the Agreement being enforced, however, they do object to the additional three (3) courts on the above theory.

WHEREFORE, the Community requests the DZC to deny BCC's request.

> **Issue No. 2. Should the BCC be required to comply with the terms of the Agreement reached with the Community, dated June 14, 1993? Answer: Yes! Whether or not the DZC grants the Special Hearing request for twelve (12) tennis courts, the DZC should then consider whether or not the non-conforming use by the Club should be revisited as to what is the status of the Clubs non-conforming use, and the permitted percentage of expansion, because the Community abandoned their disagreement with the Zoning Commissioner's decision concerning that issue before the County Board of Appeals by executing the Agreement for a limitation of nine (9) tennis courts. If that Agreement is abrogated, then the percentage of expansion should be revisited and the DZC require proof as requested by the Planning Office in 1992 as to the building area expanded over the course of the years by the Club.**

The Baltimore Country Club should be required to comply with the terms of the Agreement reached between themselves and the Community. This Agreement was entered into as an attachment and incorporated in the Zoning Commissioner's decision in Case No.: 93-388-X. As such, the Zoning Commissioner should give full force and credit to the terms of the Agreement and should enforce the terms of the Agreement against the Club.

The Community ~~suggests what is~~ questions the value of settling any case with an Agreement to be incorporated into the Zoning Commissioner Order if, in fact, it subsequently can be changed or modified by the Zoning Commissioner without the approval of the Community? The DZC should grant full force and credit to the Agreement and not permit it to be amended as requested by the Club.

If the DZC grants permission for twelve (12) courts as requested by the BCC, while that ORDER does not alter the private Agreement between the Club and the Community; it does send a message to Communities in the future that such Agreements will not be enforced by the County Zoning Officials.

In this particular case, the effect of the Agreement between BCC and the Community, has even stronger and more significant relevance. If no Agreement had been reached between the parties, the Special Exception granted for the tennis courts would have been appealed to the Board of Appeals and combined with the Zoning Commissioner's interpretation in the non-conforming case which was already appealed to the Board of Appeals. The issue before the Board of Appeals would have been the interpretation of §104.3 of the Baltimore County Zoning Regulations. The Community fully intended to challenge the application of non-conforming use to the land as opposed to the twenty-five percent (25%) of the building area. By signing the Agreement the Community gave up this argument in which they ultimately could have prevailed, for the certainty of the location and number of nine (9) tennis courts.

Whether or not the DZC modifies the Plan as requested here and permits twelve (12) tennis courts, the Community requests that the issues related to the non-conforming use of the Club and the percentage of expansion be reviewed and

reconsidered. More specifically, the Community requests proof by the Baltimore County Club, also as requested by the Office of Planning in 1992, as to the building area and size as it existed in 1963 and as currently exists. The Community's position is that it is significantly over twenty-five percent (25%) of that permitted under the proper interpretation of §104.3.

Issue No. 3. The DZC should refer this project to DEPRM for complete storm water management review and an environmental review.

In determining whether or not to grant the Special Hearing, it is clear that the application of the Baltimore County Zoning Regulations §502.1 are required to be reviewed to determine the impact of the twelve (12) versus nine (9) tennis courts upon the Community. As part of that issue, the Community has raised Question #10 which raises concern over the environmental impact of this development as it relates to storm water and forest conservation upon the Community. The Affidavit attached to the Petition for Special Hearing from the Community's expert, Keith Bowers, a qualified expert in storm water management, submitted as Exhibit E, it should be taken into consideration to support the Community's request that before the Petition for Special Hearing is granted, an analysis be performed and a report made by DEPRM as to whether or not the development is in full compliance with County Regulations and adequately protects the members of the public and the Community.

This request by the Community is particularly heightened by the previous civil litigation which was needed to recover damage to Bomont Road caused by BCC and its failure to properly protect the neighbors' property and the environment.

Issue No. 4. Must the BCC comply with the Baltimore County Zoning Regulations §406A, requiring 100 foot separation between RC boundary lines and tennis courts number #8 and #9?

Dr. Dow testified in regard to the Baltimore County Zoning Regulations, §406A, the boundary lines of the Club and the zoning of the adjacent Spies' property and its proximity to courts #8 and #9 which are less than 100 feet.

The Community respectfully requests the Hearing Officer require compliance with this Section of the Baltimore County Zoning Regulations.

CONCLUSION

The Community submits that for all of the reasons set forth herein, including the past history between the BCC and the Community, that the Agreement between the parties in 1993 should be enforced by the Zoning Commissioner in this hearing.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Petitioners

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 4th day of October, 2004, a copy of the foregoing Memorandum of Community Petitioners in Lieu of Final Argument was mailed first class, postage pre-paid to the following:

G. Scott Barhight, Esquireand Jennifer R. Busse, Esquire, Whiteford, Taylor & Preston, LLP, 210 West Pennsylvania Avenue, Suite 400, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Memos 2004\BCC Memo Community Petitioners Lieu of Final Argument

PETITIONERS'

APPENDIX

Filed 12/10/92

IN RE: PETITION FOR	*	BEFORE THE
SPECIAL HEARING	*	ZONING COMMISSIONER
THE BALTIMORE COUNTRY CLUB	*	OF
AT FIVE FARMS	*	BALTIMORE COUNTY
ITEM #40 9th Election District	*	Case No.: 93-37-A
	*	

* * * * * * * * * * * * *

PROTESTANT'S MEMORANDUM
IN LIEU OF FINAL ARGUMENT

Protestants, Joseph R. B. Tubman, Donna Dow and Deborah Terry, by **J. Carroll Holzer**, Holzer, Maher, Demilio & Lee, hereby submit this Memorandum in Lieu of Final Argument on the above captioned case. The Protestants Tubman, Terry and Dow, (hereinafter "Protestants") along with other witnesses who testified before the Zoning Commissioner, are residents of the immediate area and in most cases, property owners adjacent and adjoining the Baltimore Country Club at Five Farms.

I. Facts

The Baltimore Country Club at Five Farms is requesting a verification of a non-conforming use as a Country Club and golf course. The Club is currently improved with a clubhouse, two 18 hole golf courses, practice range, swimming pools, rain shelters, comfort stations, maintenance buildings and staff residence. The Club is requesting permission to construct nine (9) additional tennis courts and to relocate the existing parking area and to provide for improvements to the pool area

LAW OFFICES
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& DEMILIO
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OWSON, MARYLAND
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Exh A

93-521-SPH
11/10/92 kt

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 28, 1992

FROM: Ervin Mc Daniel, Chief
Office of Planning and Zoning
Development Review Section

RECEIVED
NOV - 2 1992
ZONING COMMISSIONER

SUBJECT: Addendum to Item No. 40

Supplemental Comments:

The Baltimore County Club at Five Farms is requesting a verification of an alleged non conforming use of a Country Club and golf course. The club is currently improved with a club house, two 18-hole golf courses, practice range, swimming pool, rain shelters, comfort stations, maintainence buildings and staff residences. Section 104 of BCZR states "no non conforming building or structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used the petitioner must provide an outline of all parcels owned by the club and when they were acquired. We are aware that parcel 73 on Tax Map 60 was recently purchased by the club and should not be included as part of the non-conforming use of the club. The petitioner may wish to amend the petition for a Special Exception to cover this property, as well as, any others which have not historically been part of the club. Also, a time line showing the dates of construction and size of all buildings on the site in order to determine the amount of expansion left under the 25% rule should be provided.

The community has raised significant concerns regarding runoff, erosion and periodic flooding in the area. These concerns must be addressed as a part of any approval for expansion of these facilities.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

Prepared by: Francis Morsey

Division Chief: Ervin McDaniel

EMcD/FM:rdn

40ADDEM.FM/ZAC1

Comm #11

Exh B

wlc

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SW/S Jenifer Road, N/S
Timonium Road * ZONING COMMISSIONER
11500 Mays Chapel Road
8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District
*
Baltimore Country Club of * CASE # 93-37-SPH
Baltimore City
Petitioner
****

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property located in Timonium known as the Baltimore Country Club at Five Farms. As stated in the Petition, the property owner seeks approval of "an existing nonconforming country club and modifications." Clearly, the wording of the Petition is but a general statement of the relief sought by the property owner. Specifically, the Petitioner seeks legitimization of a vast tract of property as a nonconforming country club use and approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired.

The Petition was filed by the Baltimore Country Club of Baltimore City, the legal owner of the property. The Petitioner is represented by G. Scott Barhight, Esquire. Numerous witnesses appeared on behalf of the Petition. They included William P. Geary, a long time member of the Country Club and its current President. He testified extensively as to the history of the property from the time of its acquisition by the Club in the 1920s to the present. Also testifying was Paul T. Spellman, Jr., who has been employed as the General Manager and Chief Operating Officer of the Club since 1985. Mr. Spellman is the individual who is the hands-on manager of the facility and directs its day to day operation. Also testifying was Edmund Haile of Daft, McCune and Walker. Mr. Haile, a Civil Engineer, assisted in the prepa-

EXHIBIT 1 (Exh C)
Com Exh #3

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION FOR A COUNTRY CLUB	*	ZONING COMMISSIONER
11500 Mays Chapel Road Parcel A - NWC Mays Chapel Road and Bomont Road Parcel B - W/S Mays Chapel Road, 361 feet plus or minus S/S Chapel Ridge Road Eighth Election District Third Councilmanic District	*	OF BALTIMORE COUNTY
Petitioner: Baltimore Country Club of Baltimore City	*	Case No. 93-388-X

* * * * * * * * * * * * * * * *

FINDINGS OF FACTS AND
CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the subject parcels located at 11500 Mays Chapel Road. The Petition was filed by the property owner, Baltimore Country Club of Baltimore City, which operates a country club at this location known as Five Farms.

The Petitioner seeks approval for a country club on two parcels. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing confirming a nonconforming country club and modifications for those portions of the property owned by the Petitioner as of September 26, 1963. The two parcels which are the subject of this Petition for Special Exception were not owned by the Petitioner as of September 26, 1963. Therefore, Parcels A and B are not part of the nonconforming country club.

The Petitioner is represented by G. Scott Barhight, Esquire. Appearing at the hearing on behalf of the Petitioner as witnesses

Comm #5 A
Exh. 2 (EXHD)

AGREEMENT

THIS AGREEMENT, entered into on this 14th day of June, 1993, by and between BALTIMORE COUNTRY CLUB OF BALTIMORE CITY ("BCC") and JOSEPH R.B. TUBMAN, DONNA DOW, DEBORAH TERRY and COURTNEY SPIES ("the Community").

WHEREAS, BCC has operated a country club on the property known as Five Farms in Baltimore County, Maryland since the 1920s and would like to make certain modifications to the country club including but not limited to improvements to the Clubhouse and other facilities, addition of new parking areas and the construction of nine (9) new tennis courts;

WHEREAS, by his Order dated March 5, 1993, the Zoning Commissioner of Baltimore County granted the Petition for Special Hearing filed by BCC thereby granting the existing non-conforming country club and modifications;

WHEREAS, BCC has filed a Petition for Special Exception for a country club to apply to two (2) parcels not included in the March 5, 1993 Order of the Zoning Commissioner (the "Merrick" and "Boyce" parcels); and

WHEREAS, the Community has expressed concerns about (i) the existing and future stormwater runoff leaving the country club and passing onto certain properties along Bomont Road, (ii) the potential sound and visual impact of the proposed additional tennis courts and relocated parking facilities adjacent to said tennis courts, and (iii) the possibility that the Boyce parcel may be used for purposes other than for a single family residence, three tennis courts and twelve parking spaces.

W I T N E S S E T H:

In consideration of the mutual promises contained herein, the sufficiency of which is hereby acknowledged, the parties agree as follows:

1. BCC Obligations.

In consideration of the obligations of the Community, BCC agrees as follows:

A. When and if BCC constructs the parking areas immediately adjacent to the Clubhouse, BCC shall handle all stormwater runoff in accordance with the quantity and quality requirements of all then existing and applicable federal, state and Baltimore County laws and regulations.

Exh. E
Comm. B

EXHIBIT 3

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Mays Chapel & Bormont Roads,
SW/S Mays Chapel Road, 361' SE * DEPUTY ZONING COMMISSIONER
of Chapel Ridge Road
(11500 Mays Chapel Road) * OF BALTIMORE COUNTY
8th Election District
3rd Councilmanic District * Case No. 97-384-SPH

Baltimore Country Club of *
Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners, through their attorneys, J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners seek a determination relative to seven issues raised within the Petition for Special Hearing as to whether the Owner of the subject property has forfeited the relief granted in prior Case No. 93-388-X and/or whether there has been any violation of the relief granted in prior Cases Nos. 93-388-X and 93-37-SPH, and provisions for the proper enforcement thereof. In addition, the Petitioners seek a determination as to whether there has been any violation or noncompliance with any zoning regulation, and/or proper interpretation thereof, with respect to the use of the subject property, by the Baltimore Country Club, hereinafter referred to as B.C.C. or "Club". The relief requested is more specifically set forth within the Petition for Special Hearing filed in March 1997, and as amended in July 1997.

As indicated above, this matter was originally scheduled for a public hearing on May 28, 1997, but was subsequently postponed so that the

Exh. A Comm. #1
(Exh F)

8/19/04

IN RE: PETITION FOR SPECIAL HEARING N/S of Bomont Road at its Intersection with Mays Chapel Road 8th Election District 2nd Councilmanic District **(11500 Mays Chapel Road)**	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Deborah Terry, et al., Petitioners (referred to herein as "Community")	*	CASE NO. 04-508-SPH (filed by D. Terry et al) CASE NO. 04-600-SPH (filed by BCC)
Baltimore Country Club of Baltimore City, Legal Owners and Petitioner (referred to herein as "BCC")	*	

* * * * * * * * * *

ORDER ON PRELIMINARY MOTIONS

BCC raised three issues as preliminary matters on the first day of hearing of the combined cases on July 15, 2004. BCC requests that I dismiss question 10, subparts A through E, posed by the Community in Case No. 04-508-SPH. These involved environmental issues which BCC contends were decided by the Deputy Zoning Commissioner in Case No. 97-384-SPH and are inappropriate for me to consider as I have no jurisdiction of the subject matter contained in the question. The second request is to dismiss question 11 posed by the Community in Case NO. 04-508-SPH as to whether BCC's special exception granted in Case No. 93-388–X has expired. BCC contends that this issue was determined by the Deputy Zoning Commissioner in Case No. 97-384-SPH and raising the issue again is barred by the doctrine of *res judicata*. The third issue is procedural in nature. This issue involves whether a special hearing is required to modify the nonconforming country club granted in Case No. 93-37-SPH allowing certain tennis facilities on the nonconforming area of the site. BCC contends no such hearing is required pursuant to the relief granted to BCC in Case No. 93-37-SPH. The Community contends that under the Deputy Zoning Commissioner's Order in Case No. 97-384-SPH such a special hearing is required.

For the reasons given below, I will deny BCC's Motion regarding the first issue (environmental issues), will grant BCC's Motion to Dismiss the second issue (expiration of special exception), and will require BCC to have a special hearing to amend its tennis facility plan.

MOTION TO DISMISS QUESTION 10, SUBPARTS A THROUGH E, POSED BY THE COMMUNITY IN CASE NO. 04-508 SPH

BCC requests that I dismiss the Community's question 10, subpart A through E. Question 10 raises issues regarding whether or not BCC has failed to seek a needed variance from the forest buffer regulations, whether BCC failed to follow the 2000 Storm Water Management Manual, whether BCC minimized encroaching on forest buffer areas, whether feasible alternatives to intrusion in forest buffers area were presented, and whether BCC improperly failed to comply with forest conservation requirements.

BCC argues that this Commission does not have jurisdiction to decide what essentially are environmental issues. Only DEPRM may determine these issues. BCC notes that DEPRM has reviewed the proposal and has no comments implying that the proposed plan meets all DEPRM regulations.

In addition, BCC argues that these issues were raised in question 7 of Case No. 97-384 and were dismissed by the Deputy Zoning Commissioner as not being appropriate for determination of these issues by this Commission. As such they are barred by the doctrine of *res judicata* in regard to the present proposal.

The Community obviously disagrees as to whether I should consider these questions. They note that there was a serious accident that occurred while the site was being constructed and resulted in substantial damage to surrounding properties from storm water which flowed off the site. Consequently, whether the new plan conforms to environmental regulations is essential to the health, safety and welfare of the community. They also note that the question 7 presented to Deputy Commissioner Kotroco in Case No. 97-384 SPH was substantially different from the issues raised in

the present petition. Question 7 in the 1997 case involved whether BCC complied with environmental regulations in constructing the site pursuant to the prior cases and agreement with the community. In contrast, the Community argues that Question 10 and its subparts in this case concern whether or not the new plan meets County regulations.

After reviewing the prior cases and arguments of counsel, I find that the issues raised in Question 10 regarding the new plan are for the most part substantially different from those raised in Question 7 of the 1997 case. Question 7 in the 1997 case asked about how construction was implemented in practice on the site. It essentially was an enforcement question in which the Deputy Zoning Commissioner held that the alleged violations of environmental laws are matters for DEPRM and not for this Commission. I agree with the Deputy Commissioner in his conclusions on question 7. The question presented was about implementation and enforcement of prior orders and County regulations.

In contrast, Question 10 and its subparts in this case look to whether the plan to build 12 tennis courts and tennis building must meet the environmental regulations of the County. This is not an enforcement question but whether the plan should be approved. Consequently, I will deny BCC's Motion to Dismiss this issue. The Community should be allowed to argue that the plan fails to meet the regulations even if DEPRM has no comments in reviewing this zoning issue. The Community may cite flaws in the new plan which are reasons to deny the special hearing.

In reaching this decision, I note that both BCC's Petition and the Community's Petition rely on the Zoning Commissioner's authority under Section 500.7. This section provides :

> The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

As has often been observed, unlike provision in the regulations regarding variances and special exceptions, there are no listed criteria which must be considered in making a decision on special hearings. Traditionally, this has meant that the request must be reasonable, not violate the zoning regulations or code, be within the spirit and intent of the regulations, and not adversely affect the health, safety and welfare of the community. These are very broad concepts which include many of the issues raised by the Community in Question 10.

Having said that, however, I note that Questions 10A and 10B concern conflicts with paragraphs 1A00.2.C and 1A04.B.3 of the zoning regulations. These are the general purposes of the RC zones and RC 5 zoning classifications and not specific requirements of the regulations. While I will permit testimony on violation of these regulations, testimony regarding general purposes will likely have little persuasive effect. These are not the specific regulations which follow the purposes and define what it means to meet the regulations.

I also note that whether or not BCC should have sought a variance from the forest buffer regulations is wholly within the jurisdiction of DEPRM and is triggered by BCC's choice. There is no necessity to seek such a variance. The question for me is does the plan meet the regulations whether or not a variance had been requested or granted by DEPRM.

MOTION TO DISMISS QUESTION 11 POSED BY THE COMMUNITY IN CASE 04-508 SPH

BCC argues that Question 11, posed by the Community in this case, as to whether BCC's special exception granted in Case No. 93-388–X has expired should be dismissed. BCC contends that this issue was determined by the Deputy Zoning Commissioner in Case No. 97-384-SPH and that raising the issue again is barred by the doctrine of *res judicata.*

Counsel for the Community agreed that this issue was raised in the 1997 case, and that the Deputy Zoning Commissioner ruled that the special exception had been utilized within the two year

time limit. However, counsel notes that there were errors in testimony and misrepresented facts which should be heard and which are so egregious that the issue should be heard once again. Counsel for BCC argues that the Community lost this issue in the 1997 case and the allegation that the Community failed to put on a winning case is no reason to revisit the issue today. He also notes that the Community failed to take an appeal for errors it saw in the conduct of the hearing before the Deputy Zoning Commissioner.

I agree with Counsel for BCC, that unless something extraordinary has occurred the matter is closed by the doctrine of *res judicata.* The Deputy Zoning Commissioner carefully considered the evidence presented and determined that the special exception had been utilized. No appeal was taken to this decision.

I note that Rule 2-535 (b) of the Circuit Court Rules of Procedure states that on motion of any party filed at any time, the court may exercise revisory power and control over judgments in cases of fraud, mistake or irregularity. I have not heard any proffer that such extraordinary events happened in this matter so as to justify revisiting the issue once again.

MOTION FOR RULING ON PARAGRAPH 1 OF COMMUNITY PETITION FOR SPECIAL HEARING AND PARAGRAPH 4 OF BCC'S PETITION FOR SPECIAL HEARING

This Motion asks to determine, as a matter of law, the proper interpretation of Paragraph 1 of the Community's Petition for Special Hearing and BCC's Paragraph 4 of BCC's Petition for Special Hearing.

The Community requested:

- *Does the Deputy Zoning Commissioner's decision in Case No. 97-384-SPH, attached hereto (as Exhibit A) require the Baltimore Country Club (hereinafter "B.C.C.") to seek a Special Hearing to determine whether its proposal to construct 12 tennis courts in lieu of 9 courts is permissible? (See present proposal as Exhibit No. B) The Petitioner's position is that such a hearing is required.*

BCC requested

- *If the Zoning Commissioner determines that Zoning Case No. 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.*

Both Parties request that I rule on the procedural question as to whether a special hearing is required for BCC to construct 12 tennis courts and a tennis building on the nonconforming area of the country club and Parcel A. The facts are not in dispute. In 1993, BCC was granted a nonconforming use for the existing golf course in Case No. 93-37-SPH. Six tennis courts and parking for same were approved as accessory uses to the nonconforming country club in this case. This decision did not include two other Parcels acquired by BCC known as Parcel A (also known as the Boyce property) and Parcel B. Consequently, BCC filed Case No 93-388–X requesting a special exception for a tennis facility on Parcel A which became the subject of an agreement between the Community and BCC and incorporated into the Commissioner's Order in Case No. 93-388-X

The plans approved in prior cases show six tennis courts within the country club's non conforming area and three tennis courts within Parcel A, with a small portion of these courts in the non conforming area. Apparently, the six and three courts were never built.

BCC would now like to build nine courts and a tennis building in the nonconforming area and three courts in Parcel A with again a small portion of these courts in the nonconforming area. They argue that the approved plans specifically note that tennis is one activity in the "outdoor recreation area" and that the plans indicated that the plans may be modified in the future if the activity is consistent with the nature and purpose of the country club.

I also note that Commissioner Schmidt gave a detailed analysis in Case No. 93-97-SPH concerning the issue of whether modifications are permitted within the nonconforming use area. See Question 5 of this 1993 Order. Commissioner Schmidt cites the case of *McKemy v Baltimore County*,

39 Md App 256, 385 A.2d 96 (1978) as authority allowing modifications as long as those modifications pass a four-part test. He found that the modifications over the years from the date of the beginning of the nonconforming use (1963) were consistent with the nature of a country club and therefore allowed.

The Community, on the other hand, argues that the agreement entered into between themselves and BCC specifies 9 tennis courts and the agreement was incorporated into the Commission's Order in Case No. 93-388-X. They also cite the Deputy Commissioner's decision in Case No. 97-384-SPH which indicates that the Deputy Commissioner looked at both the nonconforming and special exception areas to allow nine tennis courts. They note that he made it abundantly clear that a Special Hearing "would absolutely be necessary " for any alteration to the approved plans. BCC contends the Deputy erred in including both non conforming and special exception parcels in his decision as he was to examine the courts on Parcel A only and not revisit the decision on the nonconforming area. BCC notes that there has been no substantial change in the present proposal to the courts on Parcel A, albeit a minor shift in the position of the three courts.

I fully accept the proffer by BCC that the changes to Parcel A are insignificant in the present plan and these changes would be handled administratively should that be the only issue. However, considering the prior orders of this Commission and arguments of counsel, it is clear to me that the Deputy Commissioner required any modification of either plan to have a hearing to determine the impact on the community. He was very clear about this. I also happen to agree that the proposed plan for twelve tennis courts and a tennis building requires a special hearing even if all meaningful changes are contained within the nonconforming area.

In my view, BCC chose to design a tennis court layout that located tennis courts on both special exception and nonconforming areas in prior cases. This was done presumably for sound engineering and cost reasons. The fact that the three courts were not located solely in the special exception area

does not, in my view, support an argument that I should somehow look at the two areas separately. First, from a common sense standpoint this is one plan. The fact that it crosses the boundary between the nonconforming and special exception areas it seems to me is not important. For example, rain falling on the proposed courts and building will not distinguish between the two legal entities. The storm water facilities which process the rain do not distinguish between the two legal entities. Similarly, the parking lot will serve both facilities as well as the new tennis building. I can not make a rational decision if I separate the two. They are again reasonably one plan.

Consequently, I will require BCC to have a special hearing on the proposed plan.

John V. Murphy

JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:raj

Zoning Commissioner

Suite 405, County Courts Building
401 Bosley Avenue
Towson, Maryland 21204
Tel: 410-887-3868 • Fax: 410-887-3468

Baltimore County

James T. Smith, Jr., County Executive
Lawrence E. Schmidt, Zoning Commissioner

VIA FACSIMILE

August 19, 2004

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue
Towson, Maryland 21204

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

Re: Petitions for Special Hearing
Case Nos. 04-508-SPH & 04-600-SPH
Property: 11500 Mays Chapel Road
Order on Preliminary Motions

Dear Messrs. Barhight, La Fiandra & Holzer:

Attached hereto please find Order on Preliminary Motions regarding the above-captioned cases which will be heard tomorrow, Friday, August 20, 2004 at 1:00 p.m. in Room 407 of the County Courts Building.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:raj
Attachment

Printed on Recycled Paper

7/29/04

IN RE: PETITION FOR SPECIAL HEARING 11500 Mays Chapel Road 8th Election District 2nd Councilmanic District	*	BEFORE THE DEPUTY ZONING COMMISSIONER
Deborah Terry, et al. Petitioners (referred to herein as "Community")	*	OF BALTIMORE COUNTY
Baltimore Country Club of Baltimore City, Legal Owners and Petitioner (referred herein as "BCC")	*	Case Nos.: 04-508-SPH (filed by D. Terry, et al.) 04-600-SPH (filed by BCC)

* * * * * * * * * * * * *

COMMUNITY MEMORANDUM IN OPPOSITION
TO THE MOTION OF BALTIMORE COUNTRY CLUB

Deborah Terry, et al., hereinafter referred to as the "Community" by and through its attorney, ***J. Carroll Holzer***, Holzer & Lee, submits this Memorandum in Opposition to the Motion of Baltimore Country Club and says:

Procedural and Factual Background

At the Deputy Zoning Commissioner hearing which began on July 15, 2004, the Deputy Zoning Commissioner heard testimony from Dr.. Donna Dow concerning the procedural and factual background involved in the multiple cases between the Community and the Baltimore Country Club.

Additionally, multiple exhibits were submitted which trace the entire zoning history of this case, and as a result, this Memorandum will not purport to address all of the zoning history, but will focus on the limited issue at hand.

RECEIVED
JUL 28 2004
ZONING COMMISSIONER

Argument

I. Requirement for B.C.C. to Petition for Special Hearing

The community respectfully submits that the BCC is required to obtain a Special Hearing approval for its proposal to construct twelve (12) tennis courts and a tennis building on the non-conforming use area of its property for the reasons as set forth below. The Community will address the issues contained in the BCC Memorandum A, B and C collectively in that it is clear that the BCC is splitting hairs in an effort to justify their position that a Special Hearing is not required by the clear language of the Deputy Zoning Commissioner's decision and in opposition to its position when it executed the Agreement with the Community in 1993.

In Case No.: 93-388X, (the Special Exception Petition filed by BCC), the Settlement Agreement entered into between the Community and the BCC was incorporated into the Commissioner's Order. In the first "Whereas" clause, it is clearly indicated that the Agreement covered the improvements to the Clubhouse and other facilities, addition of "new parking areas and the construction of ***nine (9) new tennis courts***." (See Exhibit C that was attached to the Community's Petition for Special Hearing). This document was drafted by Whiteford, Taylor & Preston, LLP on behalf of the Country Club and was executed by the Community).

Clearly, the attorney for the Club understood that the Agreement covered not only the Special Exception area which consisted of three (3) tennis courts, but also the six (6) tennis courts in the non-conforming use area. The clear findings of fact and conclusions and conditions by Deputy Zoning Commissioner Kotroco on March 31, 1998 must be read to require a Special Hearing for the instant proposed amendment to the Site Plan to

permit twelve (12) tennis courts. In the Baltimore Country Club Motion, the Club is forced to allege on Page 4, that the Deputy Zoning Commissioner ***mistakenly*** referred to all nine (9) courts, when explaining the relief provided through the 1993 Special Exception case and argued that he meant "3" and not "9."

Contrary to the Club's argument, a clear understanding of the zoning history and the Agreement incorporated in the 93-388-X case, Mr. Kotroco was clear in his Findings of Fact and Conclusions of Law in Case No.: 97-384-SPH. The Deputy Zoning Commissioner should remember when reviewing this matter that Case No.: 97-384-SPH was in fact brought by the Community to ***interpret not only the prior order but the impact of the private agreement*** entered into the parties which was adopted by the Zoning Commissioner in Case No.: 93-388-X and became part of the County's zoning decision. The Petition in 97-384-SPH by the Community, sought a determination of seven (7) issues as to whether or not there has been any violation of the relief granted in Case No.: 93-388X, which included the Agreement discussing nine (9) tennis courts.

Clearly, on Page 2 and 3, Deputy Zoning Commissioner Kotroco understood the difference between the prior non-conforming case and the Special Exception case by his discussion at the bottom of Page 2. It is also clear from his discussion of Issue No. 2 on Page 7 that the Club utilized the argument that they had not yet decided on a final design for the tennis facility as part of his reason for determining that in the 1997 case, the Petitioners request for a Special Hearing was premature. It is certainly not premature at the present time. To put in context, at Page 7 of the 97-384-SPH case, the Deputy Zoning Commissioner stated that in Case No.: 93-388-X, "the Baltimore Country Club was given approval to construct nine (9) tennis courts and an accessory parking area...

Therefore, any deviation during the construction phase of the tennis court from that which is shown on the Petitioner's Exhibit 6 would have to be brought back before this Deputy Zoning Commissioner for a determination as to whether any modification thereto would be appropriate." (Opinion Page 8).

The Deputy Zoning Commissioner thereafter stated:

> "However, should the BCC decide to alter the design and configuration of the ***nine (9)*** tennis courts and related accessory parking area from that shown on the previously approved plan, a Special Hearing to approve same would absolutely be necessary."

He further stated that the only way that the Club could avoid a Special Hearing and make a modification to the tennis court facility, be a major or minor would be to exchange the amended proposed plan with the parties previously signed Agreement (Page 8).

Despite the efforts of Baltimore Country Club in its present Motion, it is clear that a Petition for Special Hearing needs to be presented by the Baltimore Country Club to explain the impact of twelve (12) tennis courts and a tennis building and its potential impact on the Community. To further clarify the Deputy Zoning Commissioner's position in the 1997 case, at the top of Page 15 he ordered that "any deviation from that shown on ***either*** plan shall require a Special Hearing to approve an amendment thereto..."

Conclusion

No matter how one reviews and analyzes the present Baltimore Country Club Plan for twelve (12) tennis courts and a tennis building, it is clear that the prior zoning history, particularly Case No.: 97-384 requires a Petition for Special Hearing. Not only does the 97-384 case require a Special Hearing, but it is clear that the Agreement between the parties attached and incorporated to the 1993 case likewise requires the Community's Agreement and contemplated nine (9) tennis courts as being the agreed upon plan.

The Agreement, in the wording of paragraph 2, states that BCC intends to build nine (9) tennis courts. Also, the attached plan showed only nine (9) tennis courts and no tennis building. The signatories to the Agreement without exception believed that this is what was agreed upon. The Community believed that this plan was fixed unless it was renegotiated by BCC. Clearly, the private Agreement is controlling and supercedes any notation on the plan originally filed for the prior hearings.

The Agreement was reached as resolution of ***both*** the non-conforming and the Special Exception cases and clearly relates to the plans on both parcels. In 97-384-SPH the Deputy Zoning Commissioner states on Page 3: "The petitioners now come before me seeking a determination of seven (7) questions (issues) relative to certain aspects of the relief granted in prior Case No.: 93-388-X, and the special hearing granted by Commissioner Schmidt in prior Case No.: 93-37-SPH."

Then, he states on Page 8: "However, should the BCC decide to alter the design and configuration of those nine (9) tennis courts and related accessory parking area from that shown on the previously approved plan, a special hearing would absolutely be necessary. The only way the BCC could avoid a special hearing and make any modification to the tennis court facility, be it major or minor, would be to exchange the amended proposed plan with those individuals who were parties to the previously signed agreement, namely Tubman, Dow, Terry and Spies, and their attorney, ***J. Carroll Holzer***, for their review and comment as to the appropriateness of such change or modification."

Since BCC is unwilling to comply with the Agreement, or to file for a hearing, the County has been placed into the adversarial position of having to file for a Special Hearing first. This was not their obligation and now has cost the Community significant time and expense.

The neighbors originally felt (and continue to feel) that tennis courts directly adjacent to our homes are undesirable for multiple reasons. Those reasons should be litigated before the Deputy Zoning Commissioner in a Special Hearing to amend the Site Plan. BCC has more than 400 acres at Five Farms at its disposal, and had alternative sites where tennis could have been placed. In addition, they have an established tennis facility at their Roland Park campus. However, as a reasonable compromise, the Community signed an Agreement with limitations on the development and containing certain conditions specified for protection of the neighbors. The Community should not now be subjected to increasing development adjacent to their homes. They ask that the Agreement which was made in good faith be enforced.

The Community would therefore, respectfully request that the Deputy Zoning Commissioner deny the request that the Baltimore Country Club does not require a Special Hearing to approve its twelve (12) proposed tennis courts and tennis building.

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 29th day of July, 2004, a copy of the foregoing Memorandum in Opposition to the Motion of Baltimore Country Club was mailed first class, postage pre-paid to the following: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 West Pennsylvania Avenue, Towson, Maryland 21204 and Jennifer R. Busse, Esquire, Whiteford, Taylor & Preston, L.L.P., 210 West Pennsylvania Avenue, Towson, Maryland 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Memos 2004\BCC Memo Opposition Case No. 04-508 SPH and 04-600-SPH

7/23/04

IN RE: PETITION FOR SPECIAL HEARING 11500 Mays Chapel Road 8th Election District 2nd Councilmanic District	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY
Baltimore County Club of Baltimore City, Legal Owners and Petitioner (referred to herein as "BCC)	*	Case Nos.: 04-508-SPH (filed by D. Terry, et. al.) 04-600-SPH (filed by BCC)
Deborah Terry, et. al. Petitioners (referred to herein as "Community")	*	

MEMORANDUM IN SUPPORT OF BCC'S ORAL MOTION FOR A RULING ON PARAGRAPH 1 OF COMMUNITY'S PETITION FOR SPECIAL HEARING AND PARAGRAPH 4 OF BCC'S PETITION FOR SPECIAL HEARING

Legal Owner and Petitioner, Baltimore County Club of Baltimore City (hereinafter referred to as "BCC"), by and through its attorneys, G. Scott Barhight, Jennifer R. Busse, and Whiteford, Taylor & Preston, L.L.P., hereby moves for a ruling on Paragraph 1 of Community's Petition for Special Hearing and Paragraph 4 of BCC's Petition for Special Hearing. In support of the oral Motion presented by BCC at the hearing on these Petitions on July 15, 2004, BCC submits this Memorandum and states:

Procedural and Factual Background

The relevant facts are not in dispute. The parties agree upon which Zoning Cases, approved Plans and Agreement are relevant to this inquiry. The parties also agree that they are unable to reach an agreement on whether the proposed tennis activities are permitted by the existing Orders, Plans and Agreement.

The majority of BCC's property was granted non-conforming use status through Case No. 93-37-SPH. *See* Order, Community Exhibit 3; and approved Plan, Community

Exhibit 2. Two small parcels, one of which ("Parcel A") Community has brought to issue in its instant Petition (Case No. 04-508-SPH), were granted Special Exception relief for a country club through Case No. 93-388-X. *See* Order, Community Exhibit 5A; and approved Plan, Community Exhibit 4. An agreement and covenants were entered into between the parties to resolve the differences arising out of the original Non-Conforming Use and Special Exception cases. *See* Community Exhibits 5B and 5C. As a result of a dispute which arose in 1997, a subsequent Order was entered in Case No. 97-384-SPH. *See* Community Exhibit 7.

Tennis activities are proposed for both the Non-Conforming Use Area and the Special Exception Area, Parcel A. *See*, Plan to Accompany Special Hearing in Case No. 04-600-SPH. Specifically, BCC proposes to construct a total of 12 tennis courts, and a tennis building. Nine (9) of these tennis courts and the tennis building will be located completely within the Non-Conforming Use Area. Three (3) of these tennis courts will be located partially within the Non-Conforming Use Area and partially within the adjacent Special Exception Area, Parcel A. *Id.*

Argument

BCC respectfully submits that it is not required to obtain Special Hearing approval for its proposal to construct the subject tennis courts and tennis building on the Non-Conforming Use Area.

A. The Approval Granted In Case No. 93-37-SPH Specifically Allows For Modifications, Such As The Additional Proposed Tennis Courts and Tennis Building, Without The Need For Further Relief.

The Plans approved in Case No. 93-37-SPH (the Non-Conforming Use Case) and Case No. 93-388-X (the Special Exception Case), show 6 tennis courts falling completely

within the Non-Conforming Use Area. BCC now proposes 9 tennis courts and a tennis court building to be completely located within the Non-Conforming Use Area. Three tennis courts are proposed to be partially located within the Non-Conforming Use Area and partially within the Special Exception Area, Parcel A. *See*, Plan to Accompany Special Exception in Case No. 04-600-SPH.

The non-conforming use case, Case No. 93-37-SPH, confirmed a non-conforming country club use for all of the subject property, with the exception of Parcels A and B. Within what is now called the "Non-Conforming Use Area", the approved plan designated numerous use areas. One of these use areas was labeled the "Outdoor Recreation Area". The approved non-conforming use plan indicates a wide variety of activities which are permitted within the Outdoor Recreation Area. Tennis is listed as one of the Outdoor Recreation Uses. The notations contained on the plan specifically state as follows:

> "The activities listing is not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore County Club.
> ...
> Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club."

The proposed tennis improvements within the Outdoor Recreation Area are completely consistent with the previously approved non-conforming use plan. Thus, there is no administrative approval, other than obtaining the relevant permits, required for BCC to construct the now proposed tennis courts and tennis court building within the Non-Conforming Use Area.

B. The Opinion and Order in Case No. 97-384-SPH Does Not Require Special Hearing Relief Be Obtained For Changes To The Previously Approved Plans For The Non-Conforming Use Area.

The Community questions whether the Deputy Zoning Commissioner's decision in

Case No. 97-384-SPH requires BCC obtain Special Hearing relief for its proposal to construct 12 tennis courts in lieu of 9. The simple answer is no.

Case No. 97-384-SPH involved a Petition for Special Hearing filed by these same Community parties. The Deputy Zoning Commissioner's decision in that case confirmed BCC's non-conforming use status for the Non-Conforming Use Area and confirmed BCC's special exception status for the remainder of its property (including Parcel A). At that time, BCC proposed a total of 9 tennis courts for its property. Just as is the case today, 3 of the tennis courts were proposed to be partially located on Parcel A and partially located on the adjacent Non-Conforming Use parcel.

A superficial and out of context reading of the Deputy Zoning Commissioners' Opinion in Case No. 97-384-SPH could cause some confusion. The first sentence of the third paragraph on page 7 states: "In Case No. 93-388-X, the BCC was given approval to construct nine (9) tennis courts and an accessory parking area for up to 12 cars." This is incorrect in that the 1993 Special Exception case related only to Parcel A and Parcel B which were not given non-conforming use status. Portions of 3 tennis courts were proposed to be located on Parcel A. The Deputy Zoning Commissioner mistakenly referred to all 9 courts (the 6 proposed for the non-conforming use parcel and the 3 proposed for Parcel A) then proposed when explaining the relief provided through the 1993 Special Exception case. The Deputy Zoning Commissioner's reference on page 7 to the tennis courts should read 3, not 9.

With a full understanding of BCC's zoning history and a careful reading of Case No. 97-384-SPH, it is clear that when the Deputy Zoning Commissioner discussed BCC's proposed "tennis court facility", he was referring to the courts proposed for Parcel A. The

definition for what the Deputy Zoning Commissioner calls the "tennis court facility" is found from reading pages 6 and 7. On page 6, the reader learns that the Deputy Zoning Commissioner is analyzing the previously approved Special Exception (the 1993 Case No. 93-388-X), which relates to Parcel A and not to the Non-Conforming Use Area. In the 2nd paragraph on page 7 the Deputy Zoning Commissioner noted that the "tennis court facility" is subject to a Restrictive Covenant. Again, this Restrictive Covenant involves only Parcel A and not the Non-Conforming Use Area.

The portion of the tennis use which falls on the Non-Conforming Use Area is regulated by the 1993 non-conforming use case. The Deputy Zoning Commissioner's Opinion in the 1997 case did not alter or amend the 1993 non-conforming use case and the restrictions/limitations it imposed. A close reading of the order portion of Case No. 97-384-SPH (pp 14, 15) makes clear that the order relates to the Special Exception Area, Parcel A. All references to the plan are to the Special Exception Plan. All references to "tennis court facility" are to the tennis use on Parcel A.

C. The Proposal For The Previously Approved Plan For Parcel A Is The Same And No Zoning Relief Is Needed.

The proposal for tennis courts on Parcel A remains the same - 3 tennis courts will be partially located on Parcel A and partially located on the Non-Conforming Use Area. It is true that the exact location of these 3 courts has shifted almost imperceptively towards the interior of the property. This shift in the courts' location, however, is extremely minor. Importantly, this shift in the courts' location will only lessen the impact, if any, on the community since the courts will be located even closer to the club's other activities.

Thus, should the Deputy Zoning Commissioner determine that Special Hearing approval is required for the minor change to the layout of the tennis courts on Parcel A, BCC respectfully submits that Special Hearing relief approving this de minimus modification clearly should be granted.

Conclusion

BCC respectfully requests that the Deputy Zoning Commissioner make an affirmative ruling that the Deputy Zoning Commissioner's decision in Case No. 97-384-SPH does not require BCC to seek Special Hearing approval for its 12 proposed tennis courts and tennis building. The Order in Case No. 93-37-SPH clearly permits these modifications. As such, no special hearing is required for the modifications to the Non-Conforming Use Area shown on the Plan to Accompany Special Hearing in Case No. 04-600-SPH.

G. Scott Barhight, Esquire
Jennifer R. Busse, Esquire
Whiteford, Taylor & Preston, L.L.P.
210 W. Pennsylvania Avenue, Suite 400
Towson, Maryland 21204
410-832-2050
Attorneys for Baltimore County Club
of Baltimore City

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of July, 2004, a copy of the foregoing Memorandum in Support of BCC's Oral Motion for a Ruling on Paragraph 1 of Community's Petition for Special Hearing and Paragraph 4 of BCC's Petition for Special Hearing was mailed, postage prepaid, to:

J. Carroll Holzer, Esquire
Holzer & Lee
The 508 Building
508 Fairmount Avenue
Towson, MD 21286

Ralph L. Arnsdorf, Esquire
Franklin & Prokopik
1 North Charles Street, Suite 100
Baltimore, Maryland 21201

G. Scott Barhight, Esquire

311817



PETITION
ZAC COMMENTS
CORRESPONDENCE

20040502
AND
20040600

(3)

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Rd.

which is presently zoned RC 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

(See attached Petition)

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

(See attached signature page)
Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

J. Carroll Holzer
Name - Type or Print

Signature

J. Carroll Holzer, P.A.
508 Fairmount Ave.
Towson, MD 21286
410-825-6961
Telephone No.

City State Zip Code

Legal Owner(s):

Baltimore Country Club of Baltimore City
Name - Type or Print

Signature

Name - Type or Print

Signature

11500 Mays Chapel Road
Address Telephone No.

Baltimore, MD 21093
City State Zip Code

Representative to be Contacted:

G. Scott Barhight, Esq.
Name

210 W. Pennsylvania Ave. 410-832-3050
Address Telephone No.

Towson MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Case No. 04-508-SPH

Reviewed By JCM Date 5-04-04

REV 9/15/98

QUESTIONS PRESENTED
FOR SPECIAL HEARING PETITION

1. Does the Deputy Zoning Commissioner's decision in Case No.: 97-384 SPH, attached hereto (as Exhibit A) require the Baltimore Country Club (thereinafter "B.C.C.") to seek a Special Hearing to determine whether its proposal to construct 12 tennis courts in lieu of 9 courts is permissible? (see present proposal as Exhibit B) The Petitioners' position is that such a hearing is required.

2. Is the B.C.C. proposed plan for 12 tennis courts, a tennis building and the elimination of a sound barrier wall in violation of the Agreement of June 14, 1993, between the Petitioners and the B.C.C. (Exhibit C)? Did the B.C.C. fail to provide SWM plans prior to County submission in violation of the Agreement and the Zoning Commissioners decision incorporating same? The Petitioners position is yes. The Agreement was incorporated in Deputy Zoning Commissioner's Decision in 93-388X and is subject to a zoning determination.

3. Does the B.C.C. breach of the 1993 Agreement void the prior SE so that B.C.C. must reapply for a SE?

4. Does the proposal of B.C.C. for 12 tennis courts (Exhibit B) require review by PADM as "development" per Baltimore County Code, §26-168(p)(i) as "the improvement of property for any purpose involving building."? The Petitioners allege that the construction of 12 tennis courts is building and requires development review, as per 1992 **development procedure for the initial** plan for tennis courts.

5. What is the definition of "development" pursuant to the B.C.Z.R. and does construction of 12 tennis courts meet that definition?

6. Does the breach of the parties' 1993 Agreement (Exhibit C), reopen the Petitioners' issues raised in Case No.: 93-388X?

7. Has the B.C.C., exceeded the expansion permitted a "non-conforming" use by the B.C.Z.R, §104 and §104.3. Petitioners submit that it has expanded in violation of §104.3. (Exhibit D).

8. If the B.C.C. has exceeded the expansion permitted by §104.3, has it lost its non-conforming status? (§104.1 and §101) (Exhibit D). Petitioners submit that it has lost its non-conforming status.

9. Even if the B.C.C. now has a legal non-conforming use, will the construction of three (3) additional tennis courts and thirty (30) parking spaces be an illegal expansion of the non-conforming use?

10. Pursuant to the authority in §500.7, the Zoning Commissioner must interpret issues posed related to the Zoning Regulations, and specifically §1A00, General Provisions for all R.C. classifications, the intent of which pursuant to §1A00, requires the Zoning Commissioner to "protect both natural and man-made resources from compromising effects of specific forms and densities of development;" and specifically, §1A04.B.3, the R.C. 5 Zone to "assure that encroachments onto production or critical natural resource areas will be minimized," the Petitioners pose the following questions:

A. Does the proposed development conflict with §1A00.2.C and §1A04.B.3 by failing to protect natural resources because the project is designed in a manner necessitating a variance to the forest buffer regulations designed to protect streams and also it fails to incorporate the channel erosion prevention and water quality protection provisions of the 2000 Maryland Storm water Design Manual? (See attached Affidavit of Bowers as Exhibit E).

B. Has the B.C.C. failed to demonstrate compliance with §1A04.B(3) not minimizing encroachment into the forest buffer?

C. The Zone of the subject site requires protection of the natural resources. §14-432 of Article IX prohibits intrusion into the forest buffer. The B.C.C. proposes such intrusion, but no evidence of feasible alternatives is presented. (§14-334b). This Petition requests a determination by the Zoning Commissioner that the proposed project violates the aforesaid Zoning Regulations.

D. Whether §14-403(b) of the Development Regulations permits B.C.C. to avoid the need to comply with written forest conservation requirements by exempting tree clearance below 40,000 sq. ft.? Petitioners do not believe this Regulation allows B.C.C. to be exempt.

E. Whether the B.C.C. must comply with the MDE 2000 Maryland Storm Water Design Manual? The existing storm water facilities were designed and approved in 1996; the new Design Manual was adopted in 2000 and

the B.C.C. project is not consistent with any of the exempted activities in §14-155 of County Storm water Management Regulations; the project fails to drain all impervious surfaces to a storm water management resource; nor does it comply with the requirements applicable to redevelopment projects per §14-155(c). This Petition requires a determination by the Zoning Commissioner that the proposed project violates the aforesaid Zoning Regulations. (See Exhibit E).

11. Has the Special Exception for the Boyce parcel expired since its granting by the Zoning Commissioner. Has B.C.C. lost its SE because it failed to timely act upon the SE and that circumstances have changed in the eleven (11) years since it was granted.

12. Such other and further issues as may be raised at the public hearing on this Petition, or which may result from the Questions raised herein.

INDIVIDUAL PETITIONERS FOR SPECIAL HEARING
INVOLVING BALTIMORE COUNTRY CLUB

Deborah Terry, 747 Bomont Rd., Timonium, MD 21093

Deborah Terry

Fred Terry, 747 Bomont Rd., Timonium, MD 21093

Frederick D Terry

Donna Dow, M.D., 721 Bomont Rd., Timonium, MD 21093

Joseph R. B. Tubman, 11431 Mays Chapel Rd., Timonium, MD 21093

Joseph R B, Tubman

Courtney Spies, Jr., 722 Bomont Rd., Timonium, MD 21093

Courtney Spies, Jr.

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road
which is presently zoned RC5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See continuation sheet

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Name - Type or Print

Signature

Whiteford, Taylor & Preston LLP
Company

210 W. Pennsylvania Ave., Suite 400
Address Telephone No.

Towson, MD 21204 (410) 832-2000
City State Zip Code

Legal Owner(s):

Baltimore Country Club of Baltimore Cit
Name - Type or Print

Signature

Name - Type or Print Michael Stott

Signature

4712 Club Road
Address Telephone No.

Baltimore, MD 21210
City State Zip Code

Representative to be Contacted:

G. Scott Barhight, Esquire
Name

210 W. Pennsylvania Ave., 410-832-200
Address Telephone No.

Towson, MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By CM Date 6/25/04

Case No. 04-600-SPH

REV 9/15/98

ORDER RECEIVED FOR FILING
Date 6/22/04
By

Petition for Special Hearing
Continuation Sheet
11500 Mays Chapel Road

Questions Presented by Petition for Special Hearing:

1. What are the geographic limits of the non-conforming use found to exist in Case No. 93-37-SPH?

2. Within the context of the provisions relating to the Outdoor Recreational Area in Zoning Case 93-37-SPH, does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use as shown the site plan to accompany this Special Hearing?

3. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restrictions on the rights of Baltimore Country Club with respect to the nonconforming use found to exist in Zoning Case No. 93-37-SPH. If so, what are the restrictions?

4. If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

308804

#600

DAFT·McCUNE·WALKER, INC.
200 East Pennsylvania Avenue Towson, Maryland 21204 301 296 3333 FAX 301 296 4705

40

Description to Accompany

Petition for Special Hearing

409.1 Acre Parcel, Baltimore Country Club

of Baltimore City Property

Southwest Side of Jenifer Road

North Side of Timonium Road

Eighth Election District, Baltimore County, Maryland

Land Planning
Environmental Sciences
Landscape Architecture
Computer Technologies
Engineering
Surveying/GIS

Beginning for the same at the intersection of the centerline of Mays Chapel Road with the centerline of Bomont Road, thence binding on said centerline of Mays Chapel Road the following two course and distances, viz: (1) North 00 degrees 47 minutes West 112.50 feet, and thence (2) North 08 degrees 07 minutes East 12.00 feet, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (3) South 84 degrees 57 minutes 40 seconds East 256.00 feet, thence (4) South 87 degrees 38 minutes East 343.08 feet, thence (5) South 56 degrees 57 minutes East 875 feet, thence (6) North 86 degrees 26 minutes East 11.5 feet, thence (7) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (8) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (9) North 86 degrees 26 minutes East 172.00 feet, and thence (10) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on said centerline of Timonium Road the following five courses and distances, viz: (11) North 86 degrees 26 minutes East 132.5 feet, thence (12) South 84 degrees 43 minutes East 82.5 feet, thence (13)

South 87 degrees 35 minutes East 660 feet, thence (14) North 77 degrees 18 minutes East 231 feet, and thence (15) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (16) North 34 degrees 38 minutes West 985.67 feet, thence (17) North 27 degrees 57 minutes West 660 feet to a point in the centerline of said road, thence (18) North 21 degrees 15 minutes West 283.75 feet to a point in the centerline of said road, thence (19) North 17 degrees 31 minutes West 346.5 feet to a point on the northeast side of said road, thence (20) North 11 degrees 49 minutes West 165 feet to a point on the northeast side of said road, thence (21) North 06 degrees 03 minutes West 753.43 feet, thence (22) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (23) Northwesterly, by a line curving to the left with a radius of 650.00 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence leaving said right-of-way line (24) North 42 degrees 17 minutes 00 seconds East 20.00 feet, thence binding along the southwest side of said Jenifer Road (25) North 47 degrees 43 minutes West 1325.17 feet, thence (26) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (27) South 73 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (28) South 62 degrees 15 minutes West 100 feet, thence (29) South 43 degrees 45 minutes

East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (30) South 61 degrees West 160.88 feet, thence (31) South 49 degrees 30 minutes West 66 feet, thence (32) South 33 degrees 38 minutes West 75 feet to a point on the west side of said road, thence binding on said west side (33) South 10 degrees 24 minutes East 467 feet, thence (34) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following fifteen courses and distances, viz: (35) South 86 degrees 44 minutes West 2459 feet, thence (36) South 08 degrees 51 minutes West 454.75 feet, thence (37) North 81 degrees 09 minutes West 350 feet, thence (38) South 08 degrees 30 minutes West 809.42, feet, thence (39) South 82 degrees 42 minutes East 350 feet, thence (40) South 07 degrees 18 minutes West 277.83 feet, thence (41) South 07 degrees 11 minutes West 696.75 feet, thence (42) South 51 degrees 29 minutes East 647.5 feet, thence (43) South 50 degrees 52 minutes East 334.17 feet, thence (44) North 88 degrees 34 minutes East 162 feet, thence (45) North 01 degree 26 minutes West 21 feet, thence (46) North 88 degrees 34 minutes East 100 feet, thence (47) South 01 degrees 26 minutes East 21 feet, thence (48) North 88 degrees 34 minutes East 1651.5 feet, and thence (49) South 10 degrees 46 minutes West 264 feet to intersect the centerline of aforementioned Bomont Road, thence binding on the centerline of said road the following four courses and distances, viz: (50) South 76 degrees 47 minutes East 150 feet, thence (51) South 84 degrees 52 minutes East 50 feet, thence (52) North 77 degrees 58 minutes East 135 feet, and thence (53) North 87 degrees 18 minutes

East 100 feet to the point of beginning containing 409.1 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

THE BALTIMORE COUNTRY CLUB OUTLINES DESCRIBED HEREIN ARE CURRENT THROUGH APRIL 8, 1991, PER TITLE REPORT BY AMERICAN TITLE GUARANTEE CORPORATION (APP. NO. BC-8395). THE OUTLINES OF THE FORMER BOYCE PARCEL HAVE BEEN ADDED TO THIS DESCRIPTION.

August 4, 1992

Project No 82032.G (L82032G)



WHITEFORD, TAYLOR & PRESTON
L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
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JENNIFER R. BUSSE
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TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

RECEIVED
SEP 15 2004
ZONING COMMISSIONER

September 15, 2004

The Honorable Lawrence E. Schmidt
Zoning Commissioner for Baltimore County
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: Baltimore Country Club - Five Farms
Case No. 04-600-SPH
Description to Accompany Petition for Special Hearing

Dear Mr. Schmidt:

As agreed to at the last hearing in this matter, we are now submitting a revised Description to Accompany our Petition for Special Hearing. Please feel free to contact me with any questions or concerns.

Sincerely,

Jennifer R. Busse

JRB:sll
Enclosure
cc: J. Carroll Holzer, Esquire *(w/encl)*
G. Scott Barhight, Esquire

316133

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

Description to Accompany
Petition for Special Hearing
409.1 Acre Parcel, Baltimore Country Club
Of Baltimore City Property
Southwest Side of Jenifer Road
North Side of Jenifer Road
North Side of Timonium Road
Eighth Election District, Baltimore County, Maryland

Beginning for the same at the intersection of the centerline of Mays Chapel Road with the centerline of Bomont Road, thence binding on said centerline of Mays Chapel Road the following two course and distance, viz: (1) North 00 degrees 47 minutes West 112.00 feet, and thence (2) North 08 degrees 07 minutes East 12.00 feet, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (3) South 84 degrees 57 minutes East 256.00 feet, thence (4) South 87 degrees 38 minutes East 343.08 feet, thence (5) South 56 degrees 57 minutes East 875 feet, thence (6) North 86 degrees 26 minutes East 11.5 feet, thence (7) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (8) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (9) North 86 degrees 26 minutes East 172.00 feet, and thence (10) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on the centerline of Timonium Road the following five courses and distances, viz: (11) North 86 degrees 26 minutes East 132.5 feet, thence (12) South 84 degrees 43 minutes East 82.5 feet, thence (13) South 87 degrees 35 minutes East 660 feet, thence (14) North 77 degrees 18 minutes East 231 feet, and thence (15) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (16)) North 34 degrees 38 minutes West 985.67 feet, and thence (17)) North 27 degrees 57 minutes West 660 feet to a point in the centerline of said road, thence (18)) North 21 degrees 15 minutes West

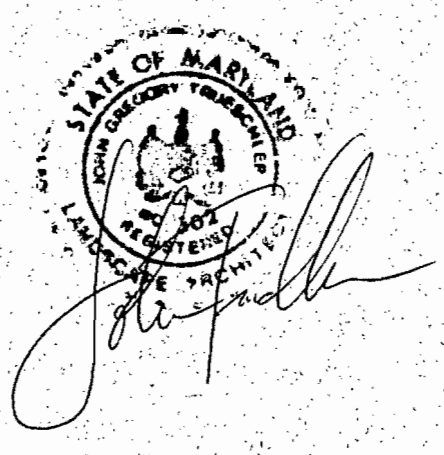
14307 Jarrettsville Pike · Phoenix, MD 21131
(410) 683-3388 · fax (410) 683-3389

283.75 feet to a point in the centerline of said road, thence (19) North 17 degrees 31 minutes West 346.5 feet to a point on the northeast side of said road, thence (21) North 06 degrees 03 minutes West 753.43 feet, thence (22) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (23) Northwesterly, by line curving to the left with a radius of 650.00 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence Leaving said right-of-way line (24) North 42 degrees 17 minutes 00 seconds East 20.00 feet, thence binding along the southwest side of said Jenifer Road (25) North 47 degree 43 minutes West 1325.17 feet, thence (26) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (27) South 73 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (28) South 62 degrees 15 minutes West 100 feet, thence (29) South 43 degrees 45 minutes East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (30) South 61 degrees West 160.88 feet, thence (31) South 49 degrees 30 minutes West 66 feet, thence (32) South 33 degrees 38 minutes West 75 feet to a point on the west side of said road, thence binding on said west side (33) South 10 degrees 24 minutes East 467 feet, thence (34) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following fifteen courses and distances, viz (35) South 86 degrees 44 minutes West 2459 feet, thence (36) South 08 degrees 51 minutes West 454.75 feet, thence (37) North 81 degrees 09 minutes West 350 feet, thence (38) South 08 degrees 30 minutes West 809.42 feet, thence (39) South 82 degrees 42 minutes East 350 feet, thence (40) South 07 degrees 18 minutes West 277.83 feet, thence (41) South 07 degrees 11 minutes West 696.75 feet, thence (42) South 51 degrees 29 minutes East 647.5 feet, thence (43) South 50 degrees 52 minutes East 334.14 feet, thence (44) North 88 degrees 31 minutes East 162 feet, thence (45) North 01 degrees 26 minutes West 21 feet, thence (46) North 88 degrees 34 minutes East 100 feet, thence (47) South 01 degrees 26 minutes East 21 feet, thence (48) North 88 degrees 34 minutes East 1651.5 feet, and thence (49) South 10 degrees 45 minutes West 264 feet to intersect the centerline of aforementioned Bomont Road, thence binding on the centerline of said road the following four courses and distances, viz: (50) South 76 degrees 47 minutes East 150 feet, thence (51) South 84

degrees 52 minutes East 50 feet, thence (52) North 77 degrees 58 minutes East 135 feet, thence (53) North 87 degrees 18 minutes East 100 feet to the point of beginning, containing 409.1 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

THE BALTIMORE COUNTRY CLUB OUTLINES DESCRIBED HEREIN ARE CURRENT THROUGH APRIL 8, 1991, PER TITLE REPORT BY AMERICAN TITLE GUARENTEE CORPORATION (APP. NO. BC-8395). THE OUTLINES OF THE FORMER BOYCE PARCEL HAVE BEEN ADDED TO THIS DESCRIPTION.



SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

#600

Description to Accompany
Petition for Special Hearing
406.4 Acre Parcel, Baltimore Country Club ,
Of Baltimore City Property
Southwest Side of Jenifer Road
North Side of Jenifer Road
North Side of Timonium Road
Eighth Election District, Baltimore County, Maryland

Beginning for the same at a point along the centerline of Mays Chapel Road 124.00 feet northwest of the intersection of the centerline of Mays Chapel Road with the centerline of Bomont Road, and, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (1) South 84 degrees 57 minutes East 256.00 feet, thence (2) South 87 degrees 38 minutes East 343.08 feet, thence (3) South 56 degrees 57 minutes East 875 feet, thence (4) North 86 degrees 26 minutes East 11.5 feet, thence (5) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (6) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (7) North 86 degrees 26 minutes East 172.00 feet, and thence (8) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on the centerline of Timonium Road the following five courses and distances, viz: (9) North 86 degrees 26 minutes East 132.5 feet, thence (10) South 84 degrees 43 minutes East 82.5 feet, thence (11) South 87 degrees 35 minutes East 660 feet, thence (12) North 77 degrees 18 minutes East 231 feet, and thence (13) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (14)) North 34 degrees 38 minutes West 985.67 feet, and thence (15) North 27 degrees 57 minutes West 660 feet to a

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point in the centerline of said road, thence (16) North 21 degrees 15 minutes West 283.75 feet to a point in the centerline of said road, thence (17) North 17 degrees 31 minutes West 346.5 feet to a point on the northeast side of said road, thence (18) North 11 degrees 49 mnutes West 165 feet to a point on the northeast side of said road, thence (19) North 06 degrees 03 minutes West 753.43 feet, thence (20) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (21) Northwesterly, by line curving to the left with a radius of 650.00 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence Leaving said right-of-way line (22) North 42 degrees 17 minutes 00 seconds East 20.00 feet, thence binding along the southwest side of said Jenifer Road (23) North 47 degree 43 minutes West 1325.17 feet, thence (24) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (25) South 73 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (26) South 62 degrees 15 minutes West 100 feet, thence (27) South 43 degrees 45 minutes East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (28) South 61 degrees West 160.88 feet, thence (29) South 49 degrees 30 minutes West 66 feet, thence (30) South 33 degrees 38 minutes West 75 feet to a point on the west side of said road, thence binding on said west side (31) South 10 degrees 24 minutes East 467 feet, thence (32) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following sixteen courses and distances, viz (33) South 86 degrees 44 minutes West 2459 feet, thence (34) South 08 degrees 51 minutes West 454.75 feet, thence (35) North 81 degrees 09 minutes West 350 feet, thence (36) South 08 degrees 30 minutes West 809.42 feet, thence (37) South 82 degrees 42 minutes East 350 feet, thence (38) South 07 degrees 18 minutes West 277.83 feet, thence (39) South 07 degrees 11 minutes West 696.75 feet, thence (40) South 51 degrees 29 minutes East 647.5 feet, thence (41) South 50 degrees 52 minutes East 334.14 feet, thence (42) North 88 degrees 31 minutes East 162 feet, thence (43) North 01 degrees 26 minutes West 21 feet, thence (44) North 88 degrees 34 minutes East 100 feet, thence (45) South 01 degrees 26 minutes East 21 feet, thence (46) North 88 degrees 34 minutes East 1651.5 feet, and thence (47) North 88 degrees 34 minutes East 400 feet to the Centerline of Mays Chapel Road,

thence binding along the centerline of Mays Chapel Road South 08 degrees 07 minutes West 150.79 feet to the point of beginning, containing 406.4 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.

THE BALTIMORE COUNTRY CLUB OUTLINES DESCRIBED HEREIN ARE PER TITLE REPORT BY AMERICAN TITLE GUARANTEE CORPORATION (APP. NO. BC-8395).



NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #04-508-SPH
11500 Mays Chapel Road
N/side of Bomont Avenue at its intersection with Mays Chapel Road
8th Election District
2nd Councilmanic District
Legal Owner(s): Baltimore Country Club of Maryland
Petitioners/Protestants by: Counsel of J. Carroll Holzer
Special Hearing: to determine if 12 tennis courts would be permissible in lieu of 9 courts.
Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT/6/834 June 29 10825

CERTIFICATE OF PUBLICATION

6/30, 2004

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/29, 2004.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #04-600-A
11500 Mays Chapel Road
Centerline of Mays Chapel Road, 124 feet n/west of centerline of intersection of Mays Chapel & Bomont Road
7th Election District - 2nd Councilmanic District
Legal Owner(s): Baltimore Country Club of Baltimore City

Special Hearing: to determine what the geographic limits are of the non-conforming use in Case No. 93-037-SPH. Does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restriction on the rights of Baltimore Country Club with respect to the non-conforming use found to exist in Zoning Case 93-037-SPH. If so what are the restrictions? If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 6/878 June 29 11311

CERTIFICATE OF PUBLICATION

6/30/, 2004

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/29/, 2004.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

Gerhold, Cross & Etzel, Ltd.
Registered Professional Land Surveyors • Established 1906
Suite 100 • 320 East Towsontown Boulevard • Towson, Maryland 21286
Phone: (410) 823-4470 • Fax: (410) 823-4473 • www.gcelimited.com

CERTIFICATE OF POSTING

RE: CASE NO. 04-508-SPH
PETITIONER/ PROTESTANT:
By Counsel of J. Carroll Holzer
DATE OF HEARING: July 15, 2004

BALTIMORE COUNTY DEPARTMENT OF
PERMITS AND DEVELOPMENT MANAGEMENT
COUNTY OFFICE BUILDING, ROOM 111
111 WEST CHESAPEAKE AVE.
TOWSON, MARYLAND 21204

ATTENTION: KRISTEN MATTHEWS

LADIES AND GENTLEMEN:

THIS LETTER IS TO CERTIFY UNDER THE PENALTIES OF PERJURY THAT THE NECESSARY SIGN(S) REQUIRED BY LAW WERE POSTED CONSPICUOUSLY ON THE PROPERTY LOCATED AT

LOCATION:
11500 Mays Chapel Road



POSTED ON: June 16, 2004

DATE:
June 16, 2004

SIGNATURE OF SIGN POSTER

BRUCE DOAK

GERHOLD, CROSS & ETZEL, LTD
SUITE 100
320EAST TOWSONTOWN BLVD
TOWSON, MARYLAND 21286
410-823-4470 PHONE
410-823-4473 FAX

CERTIFICATE OF POSTING

RE: Case No.: 04-600-A

Petitioner/Developer: BALTO. COUNTRY CLUB OF BALTO. CITY

Date of Hearing/Closing: JULY 15, 2004

Baltimore County Department of
Permits and Development Management
County Office Building, Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

11500 MAYS CHAPEL RD

The sign(s) were posted on 6/30/04
(Month, Day, Year)

Sincerely,



Robert Black 7/6/04
(Signature of Sign Poster) (Date)

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

APPEAL SIGN POSTING REQUEST

CASE NO04-508-SPH AND 04-600-SPH

BALTIMORE COUNTY CLUB - LEGAL OWNER

11500 MAY CHAPEL ROAD, TIMONIUM

8TH ELECTION DISTRICT APPEALED: 11/17/2004
RECEIVED AT BOARD ON 1/4/2005

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

June 1, 2004

CORRECTED NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-508-SPH
11500 Mays Chapel Road
N/side of Bomont Avenue at its intersection with Mays Chapel Road
8th Election District – 2nd Councilmanic District
Legal Owner: Baltimore Country Club of Maryland
Petitioners/Protestants by Counsel of J. Carroll Holzer

Special Hearing to determine if 12 tennis courts would be permissible in lieu of 9 courts.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: J. Carroll Holzer, 508 Fairmount Ave., Towson 21286
Baltimore Country Club of MD, 11500 Mays Chapel Road, Baltimore 21093
G. Scott Barhight, 210 W. Pennsylvania Ave., Towson 21204

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 30, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Printed on Recycled Paper

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

June 25, 2004

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-600-A
11500 Mays Chapel Road
Centerline of Mays Chapel Road, 124 feet n/west of centerline of intersection of Mays Chapel & Bomont Road
7th Election District – 2nd Councilmanic District
Legal Owners: Baltimore Country Club of Baltimore City

Special Hearing to determine what the geographic limits are of the non-conforming use in Case No. 93-037-SPH. Does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restriction on the rights of Baltimore Country Club with respect to the non-conforming use found to exist in Zoning Case 98-037-SPH. If so what are the restrictions? If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue

Timothy Kotroco
Director

TK:klm

C: Dino LaFiandra, Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., Ste. 400, Towson 21204
Michael Stott, Baltimore Country Club of Balto. City, 4712 Club Road, Baltimore 21210

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 30, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

3/02/05 Rescheduled to earlier date on 6/15 (1/2 day) and 6/16 & 6/21/05 (full days)

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

February 15, 2005

NOTICE OF ASSIGNMENT

CASE #: 04-508-SPH — **IN THE MATTER OF: BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners**
11500 Mays Chapel Road 8th E; 2nd C

AND

CASE #: 04-600-SPH — **IN THE MATTER OF: BALTIMORE COUNTRY CLUB -- Legal Owner /Petitioner**
11500 Mays Chapel Road 8th E; 2nd C

10/22/04 – D.Z.C.'s Order in which special hearing relief as to Case No. 04-508-SPH /Petition filed by Deborah Terry, et al, was GRANTED in part and DENIED in part; and in which Property Owner /Petitioner's requested zoning relief was GRANTED in part with restrictions as to Case No. 04-600-SPH.

ASSIGNED FOR:

WEDNESDAY, JUNE 15, 2005 at 10:00 a.m. /Day #1;
THURSDAY, JUNE 16, 2005 at 10:00 a.m. /Day #2; and
TUESDAY, JUNE 21, 2005 at 10:00 a.m. /Day #3

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

c: Counsel for Appellant /Legal Owner : G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Appellant /Legal Owner : Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher

Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Deborah and Frederick Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.

Marvin Tenberg, Vice President /Falls Rd Community Assn.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue March 2, 2005

AMENDED NOTICE OF ASSIGNMENT /EARLIER START TIME

CASE #: 04-508-SPH **IN THE MATTER OF: BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners**
AND 11500 Mays Chapel Road 8th E; 2nd C

CASE #: 04-600-SPH **IN THE MATTER OF: BALTIMORE COUNTRY CLUB -- Legal Owner /Petitioner**
11500 Mays Chapel Road 8th E; 2nd C

10/22/04 – D.Z.C.'s Order in which special hearing relief as to Case No. 04-508-SPH /Petition filed by Deborah Terry, et al, was GRANTED in part and DENIED in part; and in which Property Owner /Petitioner's requested zoning relief was GRANTED in part with restrictions as to Case No. 04-600-SPH.

Due to scheduling conflict, Counsel for Legal Owner /Petitioner, the above matter has been reassigned to a 9:00 a.m. start time as follows:

ASSIGNED FOR: **WEDNESDAY, JUNE 15, 2005 at 9:00 a.m. /Day #1 (a.m. only);**
THURSDAY, JUNE 16, 2005 at 9:00 a.m. /Day #2 (all day); &
TUESDAY, JUNE 21, 2005 at 9:00 a.m. /Day #3 (all day)

Per new notice sent 6-17-05

4th day added 8-19-05

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.
Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.
Kathleen C. Bianco, Administrator

---

c: Counsel for Appellant /Legal Owner : G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Appellant /Legal Owner : Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher

Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Deborah and Frederick Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.

Marvin Tenberg, Vice President /Falls Rd Community Assn.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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L.L.P.

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TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

February 23, 2005

RECEIVED
FEB 23 2005
BALTIMORE COUNTY
BOARD OF APPEALS

DELIVERY BY HAND

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Baltimore Country Club of Baltimore City
04-508-SPH (filed by Community)
04-600-SPH (filed by BCC)

Dear Ms. Bianco:

I am in receipt of the Board's notice of hearing dates for the above-referenced matter. Unfortunately, I am unavailable on Wednesday, June 15, 2005. I am currently available on the other two dates, Thursday, June 16, 2005 and Tuesday, June 21, 2005. I respectfully request that the hearing scheduled for Wednesday, June 15, 2005 be rescheduled for the earliest possible date.

Thanks you for your cooperation in this matter.

Sincerely,

G. Scott Barhight

GSB:sll
cc: Peter M. Zimmerman, Esquire
J. Carroll Holzer, Esquire
Ralph L. Arnsdorf, Esquire
Baltimore Country Club of Baltimore City

327761

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

March 2, 2005

G. Scott Barhight, Esquire
WHITEFORD, TAYLOR & PRESTON
500 Court Towers
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Baltimore Country Club –Legal Owner/Petitioner;*
Deborah Terry, et al – Protestants/Petitioners
Case No. 04-508-SPH and Case No. 04-600-SPH

Dear Counsel:

In response to Mr. Barhight's letter of February 23, 2005 regarding a calendar conflict for the afternoon of June 15, 2005, and after telephone confirmation with your respective offices, the hearing in the subject matter will remain as scheduled relative to the dates; i.e., June 15th, June 16th, and June 21st.

However, since Mr. Barhight has an afternoon conflict on the 15th, rather than lose the entire day, the hearing will begin at **9:00 a.m. on June 15, 2005 for morning session only.** In addition, in order to maximize the scheduled hearing dates, the Board will also convene at **9:00 a.m. on the two remaining dates of June 16, 2005 and June 21, 2005**, as indicated on the enclosed Amended Notice of Assignment.

Should you have any questions, please contact me at 410-887-3180.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

Enclosure

c: Office of People's Counsel

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on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

3/02/05 Rescheduled to 9 am Next terms (1/2 days) 6/15; June days 6/16 and 6/21/05.

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

February 15, 2005

NOTICE OF ASSIGNMENT

CASE #: 04-508-SPH — **IN THE MATTER OF: BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners**
11500 Mays Chapel Road 8th E; 2nd C

AND

CASE #: 04-600-SPH — **IN THE MATTER OF: BALTIMORE COUNTRY CLUB -- Legal Owner /Petitioner**
11500 Mays Chapel Road 8th E; 2nd C

10/22/04 – D.Z.C.'s Order in which special hearing relief as to Case No. 04-508-SPH /Petition filed by Deborah Terry, et al, was GRANTED in part and DENIED in part; and in which Property Owner /Petitioner's requested zoning relief was GRANTED in part with restrictions as to Case No. 04-600-SPH.

ASSIGNED FOR:

WEDNESDAY, JUNE 15, 2005 at 10:00 a.m. /Day #1;
THURSDAY, JUNE 16, 2005 at 10:00 a.m. /Day #2; and
TUESDAY, JUNE 21, 2005 at 10:00 a.m. /Day #3

NOTICE: **This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.**

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

---

c: Counsel for Appellant /Legal Owner : G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire

Appellant /Legal Owner : Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher

Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire

Appellants /Protestants : Deborah and Frederick Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.

Marvin Tenberg, Vice President /Falls Rd Community Assn.

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48

Old Courthouse, 400 Washington Avenue June 17, 2005

NOTICE OF ASSIGNMENT /DAYS 3 AND 4

CASE #: 04-508-SPH **IN THE MATTER OF: BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners**
11500 Mays Chapel Road 8th E; 2nd C

AND

CASE #: 04-600-SPH **IN THE MATTER OF: BALTIMORE COUNTRY CLUB -- Legal Owner /Petitioner**
11500 Mays Chapel Road 8th E; 2nd C

10/22/04 – D.Z.C.'s Order in which special hearing relief as to Case No. 04-508-SPH /Petition filed by Deborah Terry, et al, was GRANTED in part and DENIED in part; and in which Property Owner /Petitioner's requested zoning relief was GRANTED in part with restrictions as to Case No. 04-600-SPH.

With agreement and confirmation of counsel, an additional day of hearing has been scheduled in this matter. Previously assigned day #3 (6/21/05) remains as scheduled for A FULL DAY; and 8/19/05 has been added and:

ASSIGNED FOR: **TUESDAY, JUNE 21, 2005 at 9:00 a.m. /Day #3 (all day)**
FRIDAY, AUGUST 19, 2005 at 9:00 a.m. /Day #4 (all day)

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco, Administrator

---

c: Counsel for Appellant /Legal Owner : G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Appellant /Legal Owner : Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher

Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Deborah Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.

Marvin Tenberg, Vice President /Falls Rd Community Assn.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

September 16, 2005

NOTICE OF DELIBERATION

IN THE MATTER OF:

BALTIMORE COUNTRY CLUB – Legal Owner /Petitioner (Case No. 04-600-SPH); and DEBORAH TERRY, ET AL – Protestants /Petitioners (Case No. 04-508-SPH)

Having heard this matter over four days of hearing (6/15, 6/16, 6/21, and 8/19/05), public deliberation has been scheduled for the following date /time:

DATE AND TIME : **THURSDAY, OCTOBER 6, 2005 at 9:00 a.m.**

LOCATION : **Hearing Room 48, Basement, Old Courthouse**

NOTE: Closing briefs are due on Friday, September 30, 2005 -- NO LATER THAN 3:00 p.m.
(Original and three [3] copies)

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellant /Legal Owner : G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Appellant /Legal Owner : Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher

Counsel for Appellants /Protestants : J. Carroll Holzer, Esquire
Appellants /Protestants : Deborah Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.

Marvin Tenberg, Vice President /Falls Rd Community Assn.
C. Lawrence Wiskeman
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

fyi copy: 4-5-7

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Department of Permits and Development Management

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

July 7, 2004

J. Carroll Holzer, P.A.
508 Fairmount Avenue
Towson, Maryland 21286

Dear Mr. Holzer:

RE: Case Number:04-508-SPH, 11500 Mays Chapel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on May 5, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures
c: People's Counsel
Baltimore Country Club of Baltimore City 11500 Mays Chapel Road Baltimore 21093
G. Scott Barhight 210 W. Pennsylvania Avenue Towson 21204
Deborah Terry 747 Bomont Road Timonium 21093
Fred Terry 747 Bomont Road Timonium 21093
Donna Dow, M.D. 721 Bomont Road Timonium 21093
Joseph R.B. Tubman 11431 Mays Chapel Road Timonium 21093
Courtney Spies 722 Bomont Road Timonium 21093

Department of Permits and Development Management

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

July 7, 2004

G. Scott Barhight
Whiteford, Taylor, & Preston
210 W. Pennsylvania Avenue, Ste. 400
Towson, Maryland 21204

Dear Mr. Barhight:

RE: Case Number:04-600-SPH, 11500 Mays Chapel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 25, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Baltimore Country Club of Baltimore City 4712 Club Road Baltimore 21210

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA State Highway Administration — Driven to Excel

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 5.17.04

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 508 JCM

Dear. Ms.Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

K. A. Kendl

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA State Highway Administration — Driven to Excel

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7.2.04

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 600 LTM

Dear Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

K. A. McDonald

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500

Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

May 18, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: May 18, 2004

Item No.: 495, 502-511, 513-515, 517

508

Dear Ms. Hart:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500

Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

July 1, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: July 1, 2004

Item No.: 585, 592-596, 598-609

Dear Ms. Mathews:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

6. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

cc: File

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 6, 2004

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

RECEIVED

JUL - 9 2004

ZONING COMMISSIONER

SUBJECT: 11500 Mays Chapel Road

INFORMATION:

Item Number: 4-508

Petitioner: Baltimore Country Club of Baltimore City

Zoning: RC 5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:
The petitioners are neighboring property owners of the Baltimore Country Club and are parties to a 1993 agreement with the club regarding the Boyce and Merrick parcels (also known as Parcel A and B). The subject petition raises several questions concerning the applicable zoning and development processes as pertains to the proposed construction of 12 tennis courts, a tennis building and the elimination of a sound barrier wall.

The Baltimore Country Club was also the subject of a zoning hearing, Case No. 97-384-SPH and is a 2004 CZMP issue (#2-034) in which the Falls Road Community Association requested RC 4 or RC 6 zoning. Planning Board recommendation was to retain the current RC 5 zoning.

The Office of Planning reviewed the petitioner's request and provides the following comments:

1. In the event that the Zoning Commissioner should approve the tennis courts, all stormwater management must be provided in accordance with the agreement with the petitioners.
2. Submit a landscape plan that screens the tennis courts to this office for review and approval prior to the issuance of any building permits.
3. Provide details including construction materials, and heights of the proposed wall.

4. Submit a lighting plan for the tennis courts that meets IESNA standards to this office for review and approval prior to the issuance of any building permits.

Prepared by: _____

Division Chief: _____

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 12, 2004

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

RECEIVED
JUL 12 2004
ZONING COMMISSIONER

SUBJECT: 11500 Mays Chapel Road

INFORMATION:

Item Number: 4-600

Petitioner: Baltimore Country Club of Baltimore City

Zoning: RC 5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:
The petitioners are neighboring property owners of the Baltimore Country Club and are parties to a 1993 agreement with the club regarding the Boyce and Merrick parcels (also known as Parcel A and B). The subject petition raises several questions concerning the applicable zoning and development processes as pertains to the proposed construction of 12 tennis courts, a tennis building and the elimination of a sound barrier wall.

The Baltimore Country Club was also the subject of a zoning hearing, Case No. 97-384-SPH and is a 2004 CZMP issue (#2-034) in which the Falls Road Community Association requested RC 4 or RC 6 zoning. Planning Board recommendation was to retain the current RC 5 zoning.

The Office of Planning reviewed the petitioner's request and provides the following comments:

1. In the event that the Zoning Commissioner should approve the tennis courts, all stormwater management must be provided in accordance with the agreement with the petitioners.
2. Submit a landscape plan that screens the tennis courts to this office for review and approval prior to the issuance of any building permits.
3. Provide details including construction materials, and heights of the proposed wall.

4. Submit a lighting plan for the tennis courts that meets IESNA standards to this office for review and approval prior to the issuance of any building permits.

Prepared by: Mark A Cunningham

Division Chief: Lynn Larkin

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: May 24, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 17, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-495
04-502
04-503
04-506
04-507
04-508
04-509
04-512
04-513
04-514
04-517

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED
JUL 30 2004
ZONING COMMISSIONER

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: July 30, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of July 19, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-585
04-592
04-593
04-594
04-595
04-596
04-600
04-601
04-604
04-605
04-606
04-607
04-608
04-609

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits &
Development Management

DATE: June 2, 2004

FROM: Robert W. Bowling, Supervisor
Bureau of Development Plans
Review

SUBJECT: Zoning Advisory Committee Meeting
For May 24, 2004
Item Nos. 502, 503, 507, 508, 509,
512, 513, 514, 515, and 517

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File

ZAC-05-24-2004-NO COMMENT ITEMS-495 AND 502-517-06022004

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

TO: Tim Kotroco

FROM: R. Bruce Seeley

DATE: May 24, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of May 17, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-495
04-502
04-503
04-506
04-507
04-508
04-509
04-512
04-513
04-514
04-517

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

RE:	PETITION FOR SPECIAL HEARING 11500 Mays Chapel Rd; W/side Mays Chapel 124' NW c/line Mays Chapel Rd & Bomont Rd* 8th Election & 2nd Councilmanic Districts Legal Owner(s): Baltimore Country Club of Baltimore City	*	BEFORE THE ZONING COMMISSIONER FOR
	Petitioner(s)	*	BALTIMORE COUNTY
		*	04-600-SPH

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
JUL 13 2004
Per.....

RE:	PETITION FOR SPECIAL HEARING & DEPRM VARIANCE	*	BEFORE THE COUNTY
	11500 Mays Chapel Road; N/side of Bomont Rd at intersection with Mays Chapel Road	*	BOARD OF APPEALS
	8th Election & 2nd Councilmanic Districts	*	FOR
	Legal Owner(s): Baltimore Country Club of Baltimore City	*	BALTIMORE COUNTY
	Petitioner(s)		
		*	04-508-SPH & 04-600-SPH & CBA-05-113

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

RECEIVED
JUN 14 2005
BALTIMORE COUNTY
BOARD OF APPEALS

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 14th day of June, 2005, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, and J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Baltimore County, Maryland

OFFICE OF PEOPLE'S COUNSEL
Room 47, Old CourtHouse
400 Washington Ave.
Towson, MD 21204

410-887-2188
Fax: 410-823-4236

PETER MAX ZIMMERMAN
People's Counsel

CAROLE S. DEMILIO
Deputy People's Counsel

June 14, 2005

Lawrence M. Stahl, Chairman
County Board of Appeals
400 Washington Avenue, Room 49
Towson, Maryland 21204

RECEIVED
JUN 14 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Re: Baltimore Country Club of Baltimore City
Cases: Nos: 04-508-SPH, 04-600-SPH and CBA-05-113

Dear Mr. Stahl,

Enclosed for filing is the entry of appearance of People's Counsel for Baltimore County in the above cases, scheduled for *de novo* hearing June 15, 2005.

The Deputy Zoning Commissioner's opinion and the memorandum just filed by Baltimore Country Club reflect that there are interesting and important issues pertaining to the law of non-conforming uses and special exceptions.

Because competent counsel represent, respectively, Baltimore Country Club and various members of the community, it appears that the facts will be fully explored. Therefore, our office does not intend to present evidence or add to the evidence presented by the parties.

Our office does intend to file, in timely fashion, a memorandum to address the applicable law in the right way. This may facilitate and simplify the Board's review of this complicated set of cases.

Very truly yours,

Peter Max Zimmerman

Peter Max Zimmerman
People's Counsel for Baltimore County

Carole S. Demilio /rmw

Carole S. Demilio
Deputy People's Counsel

PMZ/CSD/rmw

cc: G. Scott Barhight, Esquire
J. Carroll Holzer, Esquire

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

December 28, 2004

G. Scott Barhight
Dino C. LaFiandra
Whiteford, Taylor & Preston, L.L.P
210 W. Pennsylvania Avenue
Towson, MD 21204

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

Dear Messrs. Barhight, LaFiandra & Holzer:

RE: Case: 04-508-SPH and 04-600-SPH, 11500 Mays Chapel Road

Please be advised that appeals of the above-referenced case were filed in this office on November 17, 2004 by Scott Barhight and on November 19, 2004 by J. Carroll Holzer. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

RECEIVED
DEC 29 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Sincerely,

Timothy Kotroco
Director

TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Michael Stott, 4712 Club Rd., Baltimore 21220
Michael Fisher, 14307 Jarrettsville Pike, Phoenix 21131
W. Daniel White, 2103 Fox Trail Ct., Reisterstown 21136
Mr. & Mrs. Terry, 747 Bomont Rd., Timonium 21093
Donna Dow, M.D., 721 Bomont Rd., Timonium 21093
Courtney Spies, Jr., 722 Bomont Rd., Timonium 21093
Marvin Tenberg, Falls Rd. Community Assoc., 12206 Boxer Hill Rd., Cockeysville 21030

Printed on Recycled Paper

APPEAL

Petition for Special Hearing
11500 Mays Chapel Road
N/S Bomont Rd. @ intersection w/Mays Chapel Rd.
8th Election District – 2nd Councilmanic District
Deborah Terry, et al, - Petitioner
Baltimore County Club of Baltimore City – Legal Owners

Case No.: 04-600-SPH

✓ Petition for Special Hearing (June 25, 2004)

✓ Zoning Description of Property

✓ Revised Description of Property dated September 15, 2004

✓ Notice of Zoning Hearing (June 25, 2004)

✓ Certification of Publication (June 29, 2004 – The Jeffersonian Issue)

✓ Certificate of Posting (June 30, 2004) by SSG Robert Black

✓ Entry of Appearance by People's Counsel (July 13, 2004)

✓ Petitioner(s) Sign-In Sheet (B.C.C.) – Two Sheets

✓ Protestant(s) Sign-In Sheet – None

✓ Citizen(s) Sign-In Sheet – One Sheet

RECEIVED
JAN - 3 2005
BALTIMORE COUNTY
BOARD OF APPEALS

✓ Zoning Advisory Committee Comments July 7, 2004

✓ BCC's Exhibits:

- ✓1. Letter dated July 7, 1992
- ✓2. Site Resources Storm Water Management Study & Drainage Area Map
- ✓3A. Letter to J. Carroll Holzer dated October 27, 2003
- ✓3B. Letter to J. Carroll Holzer dated November 19, 2003
- ✓3C. Letter to J. Carroll Holzer dated December 30, 2003
- ✓4. Letter to Jeffrey Schwab dated June 21, 2004
- ✓5A. History/Physical Examination/Progress Notes/Consultation/Discharge Summary
- ✓5B. History/Physical Examination/Progress Notes/Consultation/Discharge Summary
- ✓5C. History/Physical Examination/Progress Notes/Consultation/Discharge Summary

✓ Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit)

- ✓1. Plan to Accompany Special Hearing (June 18, 2004)
- ✓2. Baltimore Country Club News & Views (March 2003 Special Edition)
- ✓3. Page 269 of McKemy vs. Baltimore County (Opinion of the Court)
- ✓4. Page 270 of McKemy vs. Baltimore County (Opinion of the Court)
- ✓5. Section 101 – General Provisions
- ✓6. Letter to Scott Barhight dated May 24, 2004
- ✓7. Multi-Page Binder on Baltimore Country Club Case (includes multiple sections)

✓ Deputy Zoning Commissioner's Order (GRANTED – October 22, 2004)

✱✱✓ Notices of Appeal received on Novemriber 17, 2004 by G. Scott Barhight and on November 19, 2004 by J. Carroll Holzer

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM

date sent December 29, 2004, klm

APPEAL

Petition for Special Hearing
11500 Mays Chapel Road
8th Election District – 2nd Councilmanic District
N/S Bomont Road @ intersection w/Mays Chapel Road
Legal Owners: Baltimore Country Club
Petitioner: Deborah Terry, et al

Case No.: 04-508-SPH

✓ Petition for Special Hearing (May 4, 2004)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (June 1, 2004)

✓ Certification of Publication (June 29, 2004 – The Jeffersonian Issue)

✓ Certificate of Posting (June 16, 2004) by Bruce Doak

✓ Entry of Appearance by People's Counsel (May 19, 2004)

✓ Petitioner(s) Sign-In Sheet - None

✓ Protestant(s) Sign-In Sheet - None

✓ Citizen(s) Sign-In Sheet – One Sheet

✓ Zoning Advisory Committee Comments (7-7-04)

✓ Petitioners' Exhibit - None

RECEIVED
DEC 2 9 2004
BALTIMORE COUNTY
BOARD OF APPEALS

Community's Exhibits –

- ✓1. Site Plan to accompany Petition for Special Hearing (Exh. B)
- ✓2. Plan to accompany Special Hearing Petition
- ✓3. Findings of facts & conclusions of law (93-37-SPH)
- ✓4. Parcel A & B Plan
- ✓5. Findings of facts & conclusions of law (93-388-X)
- ✓6. Drainage Area Map
- ✓7. Findings of facts & conclusions of law (93-384-SPH)
- ✓8. Existing and Proposed Drainage Area Map
- ✓9. Letter dated March 31, 2003 to Mr. Gary Gill
- ✓10. Letter dated March 11, 1964 to Charles Buck
- ✓11. Interoffice Correspondence to Arnold Jablon dated October 28, 1992
- 12 thru 14 not located in file
- ✓15. A-C Aerial Photos
- ✓16. Letter dated August 10, 1995 to Ed Haile
- ✓17. Interoffice Correspondence dated March 28, 1997 to R. Bruce Seeley
- ✓18. Letter dated May 24, 2004 to G. Scott Barhight

Miscellaneous (Not Marked as Exhibit)

- ✓1. Office of Planning & Zoning Official Zoning Map
- ✓2. Plat to accompany petition for Special Hearing by Adjacent Property Owners
- ✓3. CERTIFIED MAIL dated November 11, 1998
- ✓4. Memorandum in Support of BCC Oral Motion for Ruling (7/23/04)
- ✓5. Community Memorandum in Opposition to the Motion of BCC (7/29/04)
- ✓6. Memorandum of Community Petitioner's in Lieu of Final Argument (10/4/04)
- ✓7. Order on Preliminary Motions (10/19/04)

✓ Deputy Zoning Commissioner's Order (GRANTED – October 22, 2004)

* ✓ Notices of Appeal received on 11/17/04 by G. Scott Barhight & on 11/19/04 by J. Carroll Holzer

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM

date sent December 29, 2004, klm

CAROLYN SCOTT BARHIGHT ESQUIRE
WHITEFORD, TAYLOR & PRESTON
500 COURT TOWERS
210 WEST PENNSYLVANIA AVENUE
TOWSON MD 21204
ATTORNEY FOR PETITIONER/APPELLANT

DINO C LA FIANDRA ESQUIRE
WHITEFORD TAYLOR AND PRESTON
210 W PENNSYLVANIA AVENUE
TOWSON MD 21204
ATTORNEY FOR PETITIONER/APPELLANT

BALTIMORE COUNTY CLUB OF MD
11500 MAYS CHAPEL ROAD
TIMONIUM MD 21093
PETITIONER/APPELLANT

MICHAEL STOTT (Second Address))
BCC
4712 CLUB ROAD
BALTIMORE, MD 21210

J. CARROLL HOLZER, ESQUIRE
HOLZER AND LEE
508 FAIRMOUNT AVENUE
TOWSON, MD 21286
ATTORNEY FOR PETITIONER/APPELLANT

DEBORAH TERRY
~~FREDERICK TERRY~~ out 5/02/05
47 BOMONT ROAD
TIMONIUM MD 21093
PETITIONER/APPELLANT

DONNA DOWN, MD
721 BOMONT ROAD
TIMONIUM MD 21093
PETITIONER/APPELLANT

JOSEPH R.B. TUBMAN
11431 MAYS CHAPEL ROAD
TIMONIUM, MD 21093
PETITIONER/APPELLANT

COURTNEY SPIES, JR.
722 BOMONT ROAD
TIMONIUM MD 21093
PETITIONER/APPELLANT

MARVIN TENBERG
VICE-PRESIDENT
FALLS ROAD COMMUNITY ASSOCIATION
12206 BOXER HILL ROAD
COCKEYSVILLE,MD 21030

MICHAEL FISHER
14307 JARRETTSVILLE PIKE
PHOENIX MD 21131

CASE #: 04-508-SPH

AND

CASE #: 04-600-SPH

IN THE MATTER OF: **BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners** 11500 Mays Chapel Road 8th E; 2nd C

IN THE MATTER OF: **BALTIMORE COUNTRY CLUB – Legal Owner /Petitioner** 11500 Mays Chapel Road 8th E; 2nd C

04-508-SPH: Petition filed by adjacent property owners, Deborah and Fred Terry; Donna Dow, M.D.; Joseph R.B. Tubman; and Courtney Spies, Jr. – Filed pursuant to § 500.7 of the BCZR for eleven questions presented having to do with BCC's proposal to build 12 tennis courts and a tennib building.

04-600-SPH – Petition filed by Baltimore Country Club of Md., Property Owner – Filed pursuant to § 500.7 of the BCZR asking four questions regarding tennis facilities at the BCC.

10/22/04 – D.Z.C.'s Order in which special hearing relief as to Case No. 04-508-SPH /Petition filed by Deborah Terry, et al, was GRANTED in part and DENIED in part; and in which Property Owner /Petitioner's requested zoning relief was GRANTED in part with restrictions as to Case No. 04-600-SPH.

2/15/05 -Notice of Assignment sent to following; assigned for hearing on Wednesday, June 15, 2005 at 10:00 a.m. (Day #1); Thursday, June 16, 2005 at 10 a.m. (Day #2); and Tuesday, June 21, 2005 at 10 a.m. (Day #3):

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Baltimore Country Club of Maryland
Michael Stott
W. Daniel White
Michael Fisher
J. Carroll Holzer, Esquire
Deborah and Frederick Terry
Donna Dow, M.D.
Joseph R. B. Tubman
Courtney Spies, Jr.
Marvin Tenberg, Vice President /Falls Rd Community Assn.
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

2/23/05 – Letter from G. Scott Barhight, Equire, regarding assigned hearing dates; 6/16 and 6/21 are okay; however, he has a conflict (later confirmed with Jen Busse to be in the afternoon only) with 6/15/05. Could possibly keep 6/15/05, but start at earlier time, recessing at the appropriate time for Mr. Barhight. Will confirm this and then amend notice to parties.

3/02/05 – Confirmed that Mr. Holzer and Mr. Barhight are available to start at 9 a.m. on 6/15/05; also confirmed early start for two remaining dates of 6/16 and 6/21/05 as well.
- Amended Notice of Assignment sent this date; Wednesday, June 15, 2005 to begin at 9:00 a.m. FOR MORNING SESSION ONLY; and at 9:00 a.m. on Thursday, June 16 and Tuesday, June 21, 2005 (full days each).

5/02/05 – Letter from J. Carroll Holzer, Esquire – Fred Terry requests that he be removed as a party in 04-508-SPH and 04-600-SPH. T/C to Mr. Holzer to confirm that Deborah Terry is remaining a party to this matter.

5/04/05 – T/C from Sterling Leese – only Fred Terry is out of this case; Deborah Terry remains as a party.

5/05/05 – Letter to Mr. Holzer confirming that Mr. Terry has been removed as a party from both 04-508-SPH and 04-600-SPH.

5/23/05 – FAX letter from Donna Dow – requesting information re screen and stand for slide projector. She will be bringing in the projector for use in her testimony at above hearing; requesting screen and stand.

5/24/05 – Letter to Ms. Dow, with copies to Messrs. Barhight, Holzer and Zimmerman; wall or white board on easel will serve as screen; or she can bring a screen with her. Counsel table can serve as stand for projector, as has been done in the past.

6/09/05 – Pre-Hearing Brief filed by Scott Barhight, Esquire, on behalf of Baltimore Country Club.
- FAX from C. Holzer requesting additional days for hearing in this matter; also providing a copy of letter in this regard sent in May to Mr. Barhight. File noted.

6/10/05 – Letter to C. Holzer in response to his 6/09/05 letter. Any discussion of additional dates to be discussed when Board and parties get together next Wednesday 6/15 for hearing.
-Copies of above Brief forwarded to panel members this date (4-5-7); any additional filings, if any, to be forwarded to panel as soon as received. **Original Brief to be found in file – Case No. 04-508-SPH.**

6/15/05 – Board convened for hearing day #1 (Ramsey, Brassil and Crizer). Counsel advised prior to hearing that Mr. Ramsey will be leaving the Board at the end of the summer in the event the case did not conclude in the 3 days assigned. It was requested by both Mr. Holzer and Mr. Barhight that the case proceed as assigned with Mr. Ramsey as Chair.
-- Concluded day #1; to convene at 9 a.m. on 6/16/05.

6/16/05 – Board convened for hearing day #2 (4-5-7). Near the conclusion of day #2, counsel requested an additional day to be assigned; did not believe this case could be concluded by the end of the day 6/21/05 (day #3). At the conclusion of day #2, and with confirmation by counsel as to availability, an additional day was SPECIALLY ASSIGNED for Friday 8/19/05 at 9 a.m. Appropriate notice to be sent.

6/17/05 – Notice of Assignment /Days 3 and 4 sent to parties this date (to Messrs. Barhight and Holzer via FAX and USPS); day #3 remains as assigned for Tuesday, June 21, 2005 at 9 a.m. (for the entire day;there will be no DEPRM case heard the afternoon of 6/21); and day #4 has been added for FRIDAY, August 19, 2005 beginning at 9 a.m. FYI copy to 4-5-7.

6/21/05 – Board convened for day #3 (4-5-7); concluded day #3 this date; will reconvene for Day #4 on Friday, August 19, 2005 as specially assigned by notice dated 6/17/05. (NOTE: DEPRM appeal scheduled on 6/21/05 following this zoning matter will be reassigned to an agreed date inasmuch as the zoning matter is not yet concluded.

8/19/05 – Board convened for day #4 (4-5-7); completed hearing this date. Memos to be filed by 3 p.m. on Friday, September 30, 2005. Deliberation date to be assigned and notice sent.

9/08/05 – T/C from Audra Cathell, Whiteford – to confirm due date for memos in this matter. Advised her that, per my discussions with the panel members in this case, the closing briefs are due no later than 3 p.m. on Friday, September 30th. That date would be included on the Notice of Deliberation when sent; still awaiting confirmation as to availability from Mr. Ramsey. Again confirmed due date for memos with 4-5-7.

CASE #: 04-508-SPH IN THE MATTER OF: **BALTIMORE COUNTRY CLUB –Legal Owner; Deborah Terry, et al – Protestants /Petitioners**

AND 11500 Mays Chapel Road 8th E; 2nd C

CASE #: 04-600-SPH IN THE MATTER OF: **BALTIMORE COUNTRY CLUB -- Legal Owner /Petitioner** 11500 Mays Chapel Road 8th E; 2nd C

9/16/05 – Notice of Deliberation sent to parties; deliberation assigned for Thursday, October 6, 2005 at 9 a.m.; fyi copy to 4-5-7.

-- Letter from Audra Cathell, Whiteford – enclosing BCC Exhibits 10 and 11. Exhibit sheet noted; exhibits put in numeric order with balance of BCC exhibits.

9/23/05 – Letter from Audra Cathell, Esquire – enclosing BCC Exhibit #13, plans dated 12/24/03 (sheets 1-18). Exhibits placed in file; exhibit sheet noted.

9/30/05 – Memorandum of People's Counsel for Baltimore County filed this date.

-- Memorandum of "Community" Petitioners in Lieu of Final Argument Before the Board filed this date.

-- Baltimore Country Club's Closing Memorandum filed this date. See Folder 4 of 4 for copies.

MEMOS DUE 9/30/05; DO NOT MAIL MARGIE'S – WILL BE IN TO PICK UP.
MICHAEL TOOK COPIES WITH HIM WHEN HE LEFT THE OFFICE 9/30/05.
COPIES DELIVERED TO ED OUTSIDE OF BUILDING 9/30/05.

10/06/05 – Board convened for public deliberation (4-5-7); unanimously denied in part; granted in part. Prior agreement is still binding; Petitioner will need special hearing relief from Zoning Commissioner. Written Opinion and Order to be issued; appellate period to run from date of written Order. (4)

PETITION OF: BALTIMORE COUNTRY CLUB OF BALTIMORE CITY 11500 Mays Chapel Road Timonium, MD 21093	*	IN THE CIRCUIT COURT
	*	FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	* * *	BALTIMORE COUNTY
	*	CIVIL ACTION
IN THE MATTER OF: BALTIMORE COUNTRY CLUB v DEBORAH TERRY, *et al* CASE NO.: 04-508-SPH *and* CASE NO.: 04-600-SPH	* * *	No. **3-C-05-12378**
8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston L.L.P.
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RECEIVED AND FILED
05 DEC -7 PM 3:38
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

Peter M. Zimmerman,
People's Counsel for Balto. Co.
400 Washington Avenue
Old Courthouse – Roon 47
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 7th day of December, 2005, a copy of the foregoing Certificate of Notice has been mailed to: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston L.L.P, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515, J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286 and Peter M. Zimmer, People's Counsel for Baltimore County, Old Courthouse – Rm #47, 400 Washington Avenue, Towson, MD 21204.

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 7, 2005

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

RE: Circuit Court Civil Action No. 3-C-05-012378
Petition for Judicial Review
Baltimore Country Club of Baltimore City
Board of Appeals Case No.: 03-C-05-12378

Dear Holzer:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on November 29, 2005, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-05-12378.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: G. Scott Barhight, Esq
Zoning Commissioner
Timothy M. Kotroco, Director/PDM
Peter M. Zimmerman, Esq.
People's Counsel for Baltimore County

Printed with Soybean Ink on Recycled Paper

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 7, 2005

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston L.L.P.
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Circuit Court Civil Action No. 3-C-05-012378
Petition for Judicial Review
Baltimore Country Club of Baltimore City
Case No.: 04-508-SPH & 04-600-SPH

Dear Mr. Barhight:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-486-8209
Dates of Hearings: June 15, 16 and 21 and Aug 19, 2005

This office has notified Ms. Peatt that a transcript on the above-captioned matter would be due by January 24, 2006 for filing in the Circuit Court.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: People's Counsel for Balto. Co.
Carolyn Peatt, Court Reporter
J. Carroll Holzer, Esquire

Printed with Soybean Ink on Recycled Paper

PETITION OF:	*	
DEBORAH & FRED TERRY; DONNA DOW, MD; JOSEPH R. B. TUBMAN; AND COURTNEY SPIES, INDIVIDUALS at 508 Fairmount Avenue Towson, MD 21286	*	IN THE CIRCUIT COURT FOR
FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204	*	BALTIMORE COUNTY
IN THE MATTER OF THE APPLICATION OF BALTIMORE COUNTRY CLUB OF BALTIMORE CITY – LEGAL OWNER/ PETITIONER AND DEBORAH TERRY, ET AL PROTESTANTS/PETITIONERS FOR A SPECIAL HEARING ON PROPERTY LOCATED ON NW/S BOMONT ROAD @ INTERSECTION W/MAYS CHAPEL ROAD	*	CIVIL ACTION No. **3-C-05-12378**
CASE NO.: 04-508-SPH *and* CASE NO.: 04-600-SPH	*	
8TH ELECTION DISTRICT 2ND COUNCILMANIC DISTRICT	*	

* * * * * * * * * * * *

SECOND CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the Provisions of Rule 7-202(d) of the *Maryland Rules*, the County Board of Appeals of Baltimore County has given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely:

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston L.L.P.
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RECEIVED AND FILED
05 DEC -7 PM 3: 38
CLERK OF THE CIRCUIT COURT
BALTIMORE COUNTY

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21286

Peter M. Zimmerman,
People's Counsel for Balto. Co.
400 Washington Avenue
Old Courthouse – Roon 47
Towson, MD 21204

A copy of said Notice is attached hereto and prayed that it may be made a part hereof.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

I HEREBY CERTIFY that on this 7th day of December, 2005, a copy of the foregoing Certificate of Notice has been mailed to: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston L.L.P, 210 W. Pennsylvania Avenue, Towson, MD 21204-4515, J. Carroll Holzer, Esquire, Holzer & Lee, 508 Fairmount Avenue, Towson, MD 21286 and Peter M. Zimmer, People's Counsel for Baltimore County, Old Courthouse – Rm #47, 400 Washington Avenue, Towson, MD 21204.

Linda B. Fliegel

Linda B. Fliegel, Legal Secretary
County Board of Appeals, Room 49
Old Courthouse, 400 Washington Avenue
Towson, MD 21204 (410-887-3180)

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 7, 2005

J. Carroll Holzer, Esq.
508 Fairmount Avenue
Towson, MD 21286

RE: **Circuit Court Civil Action No. 3-C-05-012378**
Petition for Judicial Review
Baltimore Country Club of Baltimore City
Case No.: 04-508-SPH & 04-600-SPH

Dear Mr. Holzer:

In accordance with the Maryland Rules, the County Board of Appeals is required to submit the record of proceedings of the Petition for Judicial Review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days. The cost of the transcript of the record must be paid by you and must be paid in time to transmit same to the Circuit Court within the sixty day timeframe, as stated in the Maryland Rules.

The Court Reporter that you need to contact to obtain the transcript and make arrangement for payment is as follows:

CAROLYN PEATT
TELEPHONE: 410-486-8209
Dates of Hearings: June 15, 16 and 21 and Aug 19, 2005

This office has notified Ms. Peatt that a transcript on the above-captioned matter would be due by January 24, 2006 for filing in the Circuit Court.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enc.
c: People's Counsel for Balto. Co.
Carolyn Peatt, Court Reporter
G. Scott Barhight, Esq.

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

December 7, 2005

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston L.L.P.
210 W. Pennsylvania Avenue
Towson, MD 21204-4515

RE: Circuit Court Civil Action No. 3-C-05-012378
Petition for Judicial Review
Baltimore Country Club of Baltimore City
Board of Appeals Case No.: 03-C-05-12378

Dear Barhight:

Notice is hereby given, in accordance with the Maryland Rules, that a Petition for Judicial Review was filed on November 30, 2005, in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to the Maryland Rules.

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, **must be filed under Civil Action No . 3-C-05-12378.**

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

Linda B. Fliegel

Linda B. Fliegel
Legal Secretary

/lbf
Enclosure

c: J. Carroll Holzer, Esq.
Zoning Commissioner
Timothy M. Kotroco, Director/PDM
Peter M. Zimmerman, Esq.
People's Counsel for Baltimore County

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WHITEFORD, TAYLOR & PRESTON L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

AUDRA TROULAND CATHELL
DIRECT NUMBER
410 832-2025
acathell@wtplaw.com

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410-832-2015
www.wtplaw.com

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

September 16, 2005

VIA HAND DELIVERY

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case Nos.: 04-600-SPH; 04-508-SPH
BCC Exhibits 10 & 11

Dear Ms. Bianco:

Enclosed for the Board's file, please find BCC Exhibit No. 10 (the rendered site plan view of the tennis area) and BCC Exhibit No. 11 (the redlined overlay plan).

Please contact me if you have any questions or concerns. Have a great weekend.

Sincerely,

A. Cathell

Audra Trouland Cathell

ATC:ac
Enclosures
cc: G. Scott Barhight, Esq.
J. Carroll Holzer, Esq.

344571

RECEIVED
SEP 16 2005
BALTIMORE COUNTY
BOARD OF APPEALS

Exhibits #10 & 11 marked & entered in evidence 9/16/05

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 5, 2005

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Baltimore Country Club*
Case No. 04-508-SPH and Case No. 04-600-SPH

Dear Mr. Holzer:

This will acknowledge receipt of your letter dated April 28, 2005 removing Fred Terry as a party in the subject cases.

The file has been noted, and Mr. Terry's name will not appear on future notices, correspondence, etc. However, upon confirmation with Sterling Leese, Deborah Terry will remain as a party to this matter.

Please call me if I can be of any further assistance.

Very truly yours,

Kathleen C. Bianco
Administrator

c: Mr. Fred Terry
G. Scott Barhight, Esquire
Office of People's Counsel

FILE

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

May 24, 2005

Ms. Donna Dow
721 Bomont Road
Lutherville, MD 21093

RE: *In the Matter of: Baltimore Country Club*
Case No. 04-508-SPH and Case No. 04-600-SPH
Audio-Visual Equipment /Accessories

Dear Ms. Dow:

I am writing in response to your FAX letter received on May 23, 2005 regarding your need for a screen and appropriate stand for the slide projector that you will be bringing to the hearing in the subject matter to be used during your testimony before the Board.

Please note that, while we do not have access to either a screen or stand, the walls of the hearing room are light in color and can be used for projections. As an alternative, we have an easel on which various exhibits are affixed during the hearing. A large white board could be placed on the easel, which could then be used for the slides. Or, if you prefer, you may bring your own screen along with your projector.

As for an appropriate stand, we do have the counsel tables at the front of the hearing room upon which the projector could be placed. This option has worked in the past in those instances where images were projected from a laptop computer onto a screen.

If you have any questions, please call me at 410-887-3180, any time during normal business hours.

Very truly yours,

Kathleen C. Bianco

Kathleen C. Bianco
Administrator

c: J. Carroll Holzer, Esquire
G. Scott Barhight, Esquire
Office of People's Counsel

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on Recycled Paper

Donna Dow
721 Bomont Road
Lutherville, MD 21093

May 22, 2005

Kathleen Bianco
Administrator
County Board of Appeals
Via Fax 410-887-3182

Dear Ms. Bianco,

I am one of the parties involved in the Board of Appeals Case involving Baltimore Country Club. The case is scheduled to be heard on June 15, 16, and 21. I will be providing testimony in the case. I plan to bring a projector to show some slides. Can you provide the hearing room with a screen and an appropriate stand for the projector?

Sincerely,

Donna Dow

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

June 10, 2005

VIA FAX 410-825-6961 AND US MAIL

J. Carroll Holzer, Esquire
508 Fairmount Avenue
Towson, MD 21286

RE: *In the Matter of: Baltimore Country Club*
Case No. 04-508-SPH and Case No. 04-600-SPH

Dear Mr. Holzer :

This will acknowledge receipt of your letter dated June 9, 2005, received via facsimile, regarding additional dates for hearing in the subject matter.

I've noted the file, indicating your request for an additional two or three days for hearing, and I will also alert the Board to this request prior to the start of hearing on June 15th. Since we are less than a week from hearing day #1, I believe that this issue would best be handled when the panel members scheduled to hear this matter and all involved parties are assembled next week. As you know, it will also be necessary to confirm the availability of those panel members, in addition to all parties concerned, when assigning additional dates.

Please call me should you have any questions or additional comment.

Very truly yours,

Kathleen C. Bianco
Administrator

FILE

c: G. Scott Barhight, Esquire **/FAX 410-832-2015 & USPS**
Office of People's Counsel
CBA Panel Members

Printed with Soybean Ink
on Recycled Paper

Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

December 28, 2004

G. Scott Barhight
Dino C. LaFiandra
Whiteford, Taylor & Preston, L.L.P
210 W. Pennsylvania Avenue
Towson, MD 21204

J. Carroll Holzer
Holzer & Lee
508 Fairmount Avenue
Towson, MD 21204

Dear Messrs. Barhight, LaFiandra & Holzer:

RE: Case: 04-508-SPH and 04-600-SPH, 11500 Mays Chapel Road

Please be advised that appeals of the above-referenced case were filed in this office on November 17, 2004 by Scott Barhight and on November 19, 2004 by J. Carroll Holzer. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

TK:klm

c: William Wiseman, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Michael Stott, 4712 Club Rd., Baltimore 21220
Michael Fisher, 14307 Jarrettsville Pike, Phoenix 21131
W. Daniel White, 2103 Fox Trail Ct., Reisterstown 21136
Mr. & Mrs. Terry, 747 Bomont Rd., Timonium 21093
Donna Dow, M.D., 721 Bomont Rd., Timonium 21093
Courtney Spies, Jr., 722 Bomont Rd., Timonium 21093
Marvin Tenberg, Falls Rd. Community Assoc., 12206 Boxer Hill Rd., Cockeysville 21030

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G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

November 17, 2004

RECEIVED
NOV 17 2004
Per klm

Via Hand Delivery

Hon. William Weisman
Baltimore County Zoning Commissioner
401 Bosley Avenue
Towson, Maryland 21204

Re: Case No. 04-600-SPH AND Case No. 04-508-SPH

Dear Mr. Weisman:

On behalf of my client, Baltimore County Club of Baltimore City ("BCC"), located at 11500 Mays Chapel Road in Timonium, Maryland, 21093, please note an appeal of the below listed specific Findings of Fact and Conclusions of Law from the Deputy Zoning Commissioner's "Findings of Fact and Conclusions of Law" in the above referenced Cases.[1] Please also note an appeal of the below listed specific portions of the Deputy Zoning Commissioner's Order in the above referenced Cases. The Deputy Zoning Commissioner's Findings of Fact and Conclusions of Law, and accompanying Order, is dated October 22, 2004.

Appeal of Portion of Ruling on "Order on Preliminary Motions":

1) BCC seeks to appeal the Deputy Zoning Commissioner's Ruling which required that BCC request a Special Hearing to approve the amendments it proposes to the nonconforming use parcel.

2) BCC seeks to appeal the Deputy Zoning Commissioner's Ruling to permit testimony regarding alleged violations by BCC of environmental regulations.

---

[1] The Deputy Zoning Commissioner issued one Opinion and Order for both of the above referenced Cases. A copy of that Opinion and Order is attached hereto.

Appeal of Specific "Findings of Fact and Conclusions of Law":

1) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 9[1], where in he refused to differentiate between the nonconforming use parcel and the Boyce Parcel and instead decided to view the entire property as being controlled by one plan.

2) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on pages 12 and 13, wherein he found that he is not bound by the Zoning Commissioner's reasoning and Order in Case No. 93-37-SPH, and found that the proposed three additional tennis courts require his review and approval.

3) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on pages 13-14, wherein he found that the three additional courts are not intensifications but rather are extensions of the nonconforming uses and subject to the 25% rule of BCZR 104.3

4) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 15, wherein he found that the new tennis building shown on the plan is an extension of and not an intensification of the blue structure shown on Community Exhibit Nos. 2 and 4 and therefore subject to the 25% rule.

5) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 15, wherein he found that the "plat" approved in Case No. 93-37-SPH "is the plat against which one must measure any change."

6) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 17, wherein he found that "structures and land of nonconforming uses may not be extended more than 25% of the area of land or 25% of the volume of structures."

7) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 17, wherein he found that BCC's proposal for a total of 12 tennis courts was prohibited and that only one additional tennis court is allowed.

---

[1] All references herein to pages of the Deputy Zoning Commissioner's Opinion and Order in this matter are not intended to limit the scope of this appeal but rather are intended to provide an understanding of the scope of this appeal.

8) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 19, wherein as part of approving BCC's Plan, he eliminated BCC's proposal for Tennis Courts numbers 8 and 9.

9) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 20, wherein he found that BCC's proposal to increase the number of tennis courts on the nonconforming parcel was an extension of the nonconforming accessory use recognized in Case No. 93-37-SPH, found that BCC's proposal for tennis courts on the nonconforming parcel violates BCZR § 104.3, and found that only one additional tennis court may be built.

10) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 20, wherein he found that the proposed tennis building is an extension of the tennis building approved in Case No. 93-37-SPH, and is therefore subject to BCZR § 104.3.

11) BCC seeks to appeal the Deputy Zoning Commissioner's finding of fact and conclusion of law on page 20, wherein as part of approving BCC's Plan for the Tennis Area, he eliminated Tennis Courts 8 and 9.

Appeal of Specific Provisions of "Summary" (Order):

1) BCC seeks to appeal a portion of the Deputy Zoning Commissioner's Order on page 20, wherein he Ordered that BCC's proposed additional three tennis courts are extensions of the previously approved nonconforming accessory use and violate the 25% rule against such extensions.

2) BCC seeks to appeal a portion of the Deputy Zoning Commissioner's Order on Page 20, wherein he Ordered that only one additional tennis court may be constructed instead of the additional three tennis courts proposed by BCC.

3) BCC seeks to appeal the restriction, imposed by the Deputy Zoning Commissioner as part of his Order on Page 21, which requires BCC to erect a sound barrier between the tennis courts and adjacent residents.

4) BCC seeks to appeal a portion of the Deputy Zoning Commissioner's Order on page 21, wherein he failed to Order that Case Nos. 93-37-SPH and 97-384-SPH remain in full force and effect.

5) BCC seeks to appeal a portion of the Deputy Zoning Commissioner's Order on page 21, wherein he alleges that his Findings of Fact and Conclusions of Law have modified the former Deputy Zoning Commissioner's Order in Case No. 93-388-X.

Enclosed please find my firm's checks in the amount of $300 each, representing payment for these appeals (Case Nos. 04-600-SPH and 04-508-SPH). Please do not hesitate to contact me with any questions or concerns.

Sincerely,

G. Scott Barhight/jb

G. Scott Barhight

GSB/j
Attachment
cc: Timothy M. Kotroco, Esq.
Board of Appeals of Baltimore County
Baltimore County Club of Baltimore City
Michael Fisher
J. Carroll Holzer, Esq.

320185

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September 23, 2005

VIA HAND DELIVERY

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case Nos.: 04-600-SPH; 04-508-SPH
BCC Exhibit 13

Dear Ms. Bianco:

Enclosed for the Board's file, please find BCC Exhibit No. 13, plans dated 12/24/03 (sheets 1-18).

Please contact me if you have any questions or concerns. Have a great weekend.

Sincerely,

A. Cathell

Audra Trouland Cathell

ATC:ac
Enclosure
cc: G. Scott Barhight, Esq.
J. Carroll Holzer, Esq.

344571

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SEP 23 2005
BALTIMORE COUNTY
BOARD OF APPEALS

HOLZER
&
LEE

LAW OFFICES
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J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
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(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

April 28, 2005
#7458

Ms. Kathleen Bianco
Administrator
Board of Appeals
400 Washington Avenue
Room 49
Towson, Maryland 21204

RE: Baltimore Country Club Appeal
Case No.: 04-508-SPH
Case No.: 04-600-SPH

Dear Ms. Bianco:

My client, Fred Terry, in the above-captioned case hereby requests that he be removed as a party in Case No.: 04-508-SPH and 04-600-SPH.

Thank you very much for your attention to this matter.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Mr. Larry Wescott, Chairman
G. Scott Barhight, Esquire
Mr. Fred Terry

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LAW OFFICES
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May 20, 2005
#7458

RECEIVED
JUN 09 2005
BALTIMORE COUNTY
BOARD OF APPEALS

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Baltimore Country Club

Dear Scott:

In reviewing the upcoming Board of Appeals case for the Baltimore Country Club, my clients and I believe that the Board hearing may well run longer than two and one-half (2 ½) days, particularly in light of the fact that the appeal of the DEPRM case will begin at the conclusion of the first hearing.

As a result, I would like to propose that we request at least two (2) to three (3) additional days to conclude this matter.

I would appreciate your calling me with your thoughts and some possible available dates and we will get in touch with Kathy at the Board to see if additional scheduling is possible.

Very truly yours,

J. Carroll Holzer

JCH:mlg

cc: Donna Dow, MD

Jun-09-05 12:11p J Carroll Holzer 410-825-4923 P.03

HOLZER & LEE

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June 9, 2005
#7458

RECEIVED
JUN 09 2005
BALTIMORE COUNTY
BOARD OF APPEALS

VIA FAX 410-887-3182
Kathleen Bianco, Administrator
Baltimore County Board of Appeals
Old Courthouse, Room 49
400 Washington Ave.
Towson, MD 21204

Re: Case Nos. 04-508-SPH and 04-600-SPH
IN THE MATTER OF BALTIMORE COUNTRY CLUB, Owner

Dear Ms. Bianco:

On May 20, 2005, I wrote a letter to Scott Barhight to indicate that I believe that this case will probably go beyond the two and one-half days the Board has scheduled, particularly in light of our DEPRM appeal case that will follow the zoning cases. However, I have not received a response from Mr. Barhight and I want to reiterate to the CBA that I believe we will need at least two to three additional days to conclude this case.

I appreciate your assistance. If you have any questions, please call me at 410-825-6961.

Very truly yours,

J. Carroll Holzer

J. Carroll Holzer

Attachment

JCH:clh

cc: Scott Barhight, Esq.
Peter Max Zimmerman, Esq.
"Bro" Tubman
Donna Dow, M.D.

C:\Documents and Settings\Peggy\My Documents\Letters 2005\Bianco - LCC 6-9-05.doc

Jun-09-05 12:10P J Carroll Holzer 410-825-4923 P.02

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301-745-3900
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Herndon, Virginia 20170
703-796-0136
Facsimile 703-796-0138

May 24, 2004

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 West Pennsylvania Avenue
Towson, Maryland 21204

Re: South Five Farms v. Baltimore Country Club

Dear Scott:

I received your letter of May 14 today. I am surprised that you are just now accepting service of the Complaint when Zurich Insurance Company called me quite some time ago to let me know that the case had been tendered to them for defense. Also, we have researched the history of the plans which were sent to DEPRM.

First, we find that Site Resources drafted an "existing and proposed drainage area map" dated October 31, 2002. That date (2002) is on the drawing. The drawing was never sent to my clients for review as promised in the agreement.

Second, Site Resources sent a transmittal to the County dated November 7, 2003 and was logged in at the County on November 13, 2003. The package included the 2002 map and a "Stormwater Management Study" dated November 4, 2003. The letter of transmittal dates the drainage area map as October 31, 2003. The map itself says 2002. This package was never sent to my clients by you and it was the one most critical to my clients. It was also specified in the Agreement which you drafted.

Third, the plans which you did forward (on October 27, 200) are the demolition and salvage plan, pricing plan, grading and sediment and erosion contro , and site details. They are numbered SD-2 to SD-4, and SD-8 to SD-10 and dated September , 2003. SD drawings 5, 6 and 7 were missing from the package.

Fourth, the package you provided on December 30, 2003 is what was detailed in your cover letter. My clients did not discover the stormwater management plans until March 1, 2004 when they went to the County and found the drawings which had been filed by Site Resources.

If you have facts to dispute the chronology as set forth above, I would appreciate hearing from you by return mail.

In your letter of May 14, you state that "no stormwater management plans have been filed with DEPRM 'amending' the stormwater management facilities for the Club." Based upon what we have stated above, please explain your position.

Very truly yours,

RLA

Ralph L. Arnsdorf

RLA:jlp

cc: Dr. Donna Dow (via fax)
J. Carroll Holzer, Esquire (via fax)
G. Macy Nelson, Esquire (via fax)

F:\TMDOCS\20648.001\CORR\Barhight ltr re SD drawings20040524RLA.WPD

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

March, 2003

Special Edition

Continuation of the BCC Long-Range Plan

In 1992, the membership of Baltimore Country Club voted to adopt a Master Plan which focused primarily on improvements to the Five Farms facility, to step forward with a progressive and functional consolidation of summer sporting activity and renovations to aging facilities. The result of the vote was a remarkable 87% to proceed with the project. Included in this 1992 Master Plan were:

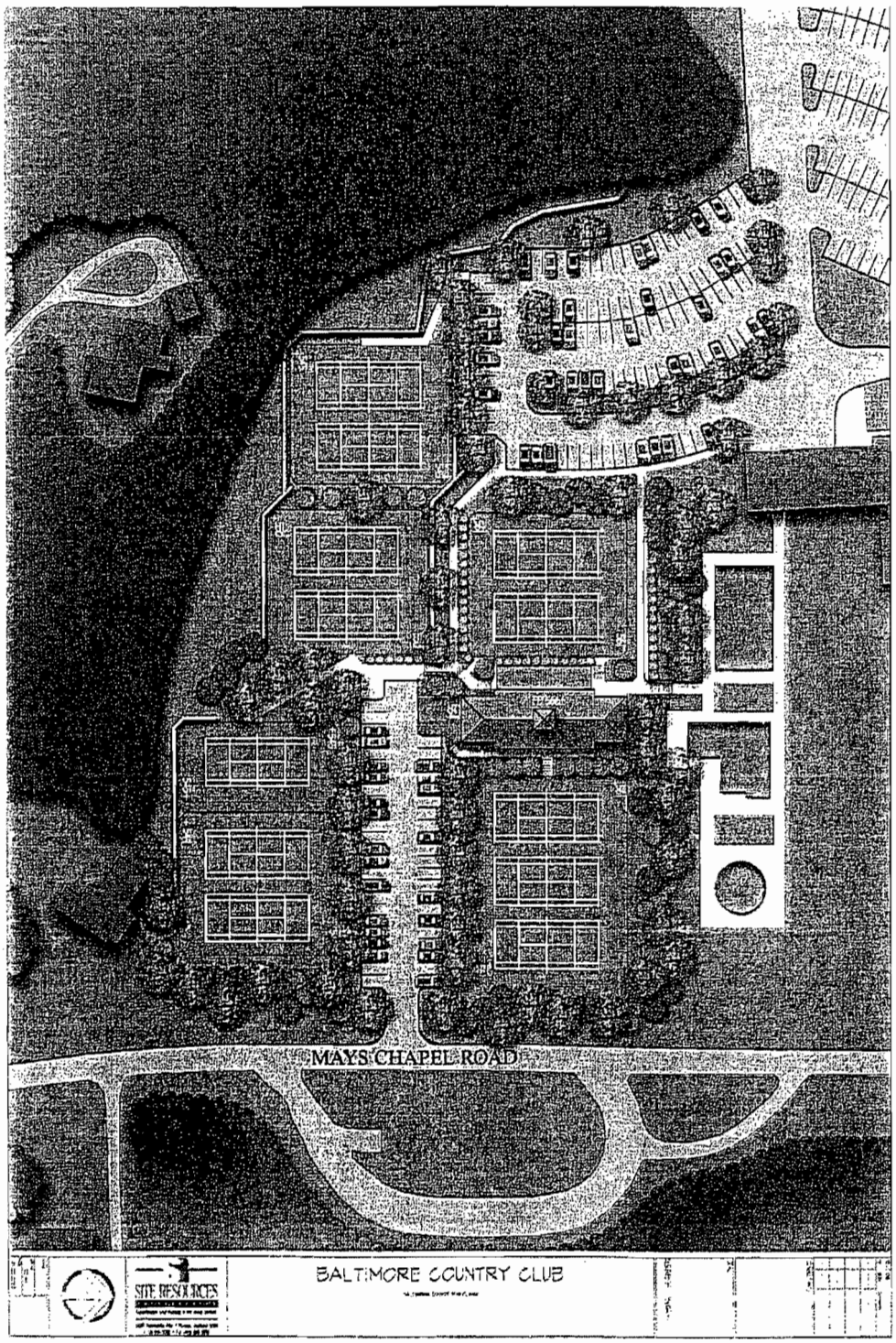
- A new Pool facility
- Increased and more convenient parking
- New Golf House including Golf Storage area and Hitting Loft
- Renovation of the Five Farms Clubhouse
- Relocation of Tennis to Five Farms

Members have, over the course of the last decade, enjoyed the first four items noted. The improvements have been outstanding and continue to provide delight for our members. Additionally, the vast improvements have helped attract new member interest in joining Maryland's premier full service Club. As you know, the relocation of Tennis is the sole remaining element to complete the 1992 Master Plan.

Furthermore, between 1992 and today, several projects were mandated by law or were determined to be a priority due to needs expressed by the membership and the Board. These include the 1995 Golf Maintenance facility in which the Club's golf course chemicals and pesticides are stored; reorientation of the Squash Courts in 1997 to international play; construction of the Fitness Center in 1998; and the elevator at Roland Park, completed in 2001. All of these improvements have enhanced member enjoyment and continue to keep BCC a full service Club. As a result of these projects, the timing of relocating Tennis was delayed; however, the commitment to relocate remains a top priority. As a point of reference, during the past ten years, the above improvements, at a cost exceeding $16 million, have been accomplished without additional funding (assessment) by the membership.

Relocation of Tennis to Five Farms

As we continue the implementation of the 1992 Master Plan, the remaining element - relocation of Tennis to Five Farms - is now before us. The Planning and Tennis Committees have respectively reviewed the preliminary drawings and schematics of Tennis at Five Farms, and have developed a site plan which has been



Exh A

in direct relationship to the business function" carried on across the street; but that it would not permit any "extension of this existing nonconforming use" either in area or for "functions which involved businesses outside and beyond the direct business use" across the street.

This declaration appears to rest upon an admixture of two dubious concepts. The first is that a parking lot is a parking lot is a parking lot, which is simply not so. The second, for want of a better description, appears to be a doctrine of "extended accessoryship" — *i.e.,* that if, prior to zoning, these lots were used for parking as an accessory to activities conducted on a lot across the street, they may, within the protective ambit of "nonconforming use", continue to be used for parking as an accessory to the activities conducted on that other lot no matter how the actual use of either parcel has changed since the advent of zoning. That too is inappropriate.

From their inception in 1945, the county zoning regulations have rejected the notion that all parking lots are the same, and have instead drawn careful distinctions between types of parking uses.[8] To do otherwise would blur obvious and important distinctions, given clear recognition by the courts, between the "parking" and the "storage" of vehicles,[9] between the parking or storage of commercial vehicles and the parking or storage of non-commercial vehicles,[10] between the business of renting parking spaces and parking as an accessory use,[11] and between parking *qua* parking and

8. *See, for example,* the original 1945 regulations: Section 1 — Definitions, ¶¶ 15, 16, and 17, distinguishing different types of garages; Section XIII-C, requiring a special exception for the use of land in a residential zone for the parking of automobiles and prohibiting thereon the parking of vehicles other than passenger cars. *See also* § 409 of the current county zoning regulations.

9. Monument Garage Corporation v. Levy, 194 N.E. 848 (N.Y., 1935): "There is a substantial distinction, clearly cognizable, between the meaning of 'storage' and 'parking'. One has a certain degree of permanency, while the other connotes transience." *See also* Service Realty Corp. v. Planning and Zoning Bd. of Ap., 109 A. 2d 256 (Conn., 1954); State v. Breidenbach, 213 N.E.2d 745 (Ohio, 1964).

10. Charles Land Co. v. Zoning Bd. of Review of Providence, 206 A. 2d 453 (R.I., 1965): variance for off-street parking of commercial vehicles in a residential zone denied where ordinance permitted variance only for parking of non-commercial vehicles. *See also* Dumais v. Somersworth, 134 A. 2d 700 (N.H., 1957); People v. Scrafano, 12 N.W.2d 325 (Mich., 1943).

11. State v. Gruber, 10 So. 2d 899 (La., 1942).

parking as part of a commercial enterprise.[12] All parking lots are not the same, and one type of parking use does not *necessarily* beget or permit another.[13]

The Board had established, in 1969, that the non-conforming use was for the transient parking of trucks and other vehicles as an adjunct to a restaurant business, and that the 1969 use was for the parking of trucks and other vehicles in conjunction with a fuel oil business. Both findings, we have stated, were supported by the record, at that time, and therefore should not be questioned now. By affirming the Zoning Commissioner in 1976, the Board concluded that, as of 1974, Mr. McKemy had expanded his use of the lots to include the "storage" of trucks (fuel oil and other), that the adjunctive or accessory use was not only in connection with a fuel oil business but general freight hauling as well, and that the trucking operations had expanded not only in intensity and volume, but also in area.

Upon those findings, it was incumbent upon the Board to determine, factually, whether those expanded uses represented a permissible intensification of the original use or an actual change from what the 1969 Board found existed in 1945 "to any other use whatsoever." In making that determination, the Board was not required to assume, and should not have assumed, that the lowest common denominator was "parking", or even "parking" in conjunction with a business across the street. In deciding whether the current activity is within the scope of the non-conforming use, the Board should have considered the following factors: [14]

(1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

12. City of Omaha v. Cutchall, 114 N.W.2d 6 (Neb., 1962).

13. *See, for example,* Cleland v. City of Baltimore, 198 Md. 440 (1951); Appeal of Yocom, 15 A. 2d 687 (Pa. Super., 1940); but *cf.* Kramer v. Town of Montclair, 109 A. 2d 292 (N.J. Super., 1954).

14. *See* New London v. Leskiewicz, 272 A. 2d 856 (N.H., 1970); Powers v. Building Inspector of Barnstable, 296 N.E.2d 491 (Mass., 1973); Board of Selectmen of Blackstone v. Tellestone, 348 N.E.2d 110 (Mass. App., 1976).

7/15/04

CITIZENS SIGN IN SHEET

CASE 04-600-SPH

J08-SPH

Joseph R.B. Tubman JOSEPH R.B. TUBMAN 11431 MAYS CHAPEL RD, TIMONIUM 21093

William F. Yonkers WILLIAM F. YONKERS 736 BOMONT ROAD, LUTHERVILLE 21093

John A. Galbreath (for Falls Rd. Commun. Assoc.) 2516 Chestnut Wood, Reisterstown, MD 21136

Kathryn G. Tubman Kathryn G. Tubman → 11431 Mays Chapel Rd. Timonium, MD 21093

Fred Terry FRED TERRY 747 BOMONT ROAD TIMONIUM, MD 21093

Deborah Terry Deborah A. Terry 747 Bomont Rd. Tim. MD 21093

COURTNEY A. SPIES, JR 722 BOMONT RD TIM. MD. 21093

Donna Dow 721 Bomont Rd Timonium, MD 21093

PLEASE PRINT CLEARLY

CASE NAME Balt County Club
CASE NUMBER 04-508-SPH + 04-600-SPH
DATE 9/3/04

BCC

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
G. Scott Barhight	210 W Pennsylvania Ave	Towson MD 21204	
Michael Fisher	14307 Jarrettsville Pike	Phoenix, MD 21131	
W. DANIEL WHITE	2103 FOX TRAIL CT	REISTERSTOWN, MD 21136	[redacted]
MICHAEL STOTT	1137 FAIRBANKS DR.	LUTHERVILLE, MD 21093	

PLEASE PRINT CLEARLY

CASE NAME BCC
CASE NUMBER 04-508-SPH & 04-600-SPH
DATE 9/3/04

Baltimore County CWS

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Gerhardt Baehr	210 W Pennsylvania	Towson 21204	
MICHAEL R. STOTT	4712 CLUB RD.	BALTIMORE CITY 21210	

PLEASE PRINT CLEARLY

CASE NAME BCC
CASE NUMBER 04-508-SPH
DATE 04-600-SPH
9/3/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
Donna Dow	721 Bomont Rd	Lutherville MD 21093	
COURTNEY SPILES, JR	722 BOMONT RD	LUTHERVILLE, MD. 21093	
J.R. B. TUBMAN	11431 MAYS CHAPEL RD.	LUTHERVILLE, MD. 21093	
Kathryn Co. Tubman	11431 Mays Chapel Road	Lutherville, MD 21093	
FRED TERRY	747 BOMONT ROAD	LUTHERVILLE, MD 21093	
Debbie Terry	747 Bomont Rd	Lutherville, MD 21093	
Marvin Tenberg	12206 Boxer Hill Rd	Cockeysville, Md 21030	
Vice President Falls Road Community Assoc			

BCC EXHIBITS

20040508

AND

20040609

"A"

4

BCC 6-15-05 6-16-05

Verified 6/16/05 ✓ = None

Verified 6-21-05

Verified 9/08/05

BCC Exhibits

04-508-SPH

and

04-600-SPH

✓ 1 ✓ Letter Schreiber to Barbright 7/7/92 (submitted 8/19/05)

✓ ✓ 2 Face Sheet 11/7 2003 & pase doc - sum study 11/03

✓ ✓ 3 Letters from Barbright & Helzer A-C

✓ 4 ✓ DEPRM Letter dated 6/21/04 (Ex. submitted 8/19/05)

✓ ✓ 5 Handwritten Notes A-C

✓ ✓ 6 Side Plan to accompany SPH Petition 6/18/04

✓ ✓ ✓ 7 Letter from Helzer + Barbright 1/20/04

✓ ✓ 8A - Handwritten Notes - Dillon's

✓ B Dillon's Handwritten Notes

✓ 9 Fisher CV

9/16/05 ✓ 10 Architects rendering of Courts [Barbright Kept]

9/16/05 ✓ 11 Red line marked drawing of 1993 Plan to compare to current plan [Barbright Kept]

✓ 12 Handwritten note Dec. 8, 2003 From Edward Schmaus

USE

Outdoor Recreation	461,030 SF	342,100 SF	+17.8%
Badminton (Lawn Court)		Badminton (Lawn Court)	
Croquet (Lawn Court)		Croquet (Lawn Court)	
Field Sports		Field Sports	
Cart Storage		Parking	
Parking		Picnicking	
Picnicking		Snack Bar, Manager's Office	
Snack Bar, Manager's Office		Support (Lockers, Pool, Equipment)	
Support (Lockers, Pool, Equipment)		Swimming	
Swimming		Tennis	
Volleyball (Lawn Court)		Volleyball (Lawn Court)	
Social	76,655 SF	81,720 SF	+6.6%
Cards		Cards	
Changing Rooms		Changing Rooms	
Clubhouse Functions		Clubhouse Functions	
Dining		Dining	
Member Functions		Member Functions	
Outdoor Dining		Outdoor Dining	
Parking		Parking	
Residential		94,305 SF	N/A
TOTAL	17,705,833 SF	17,819,089 SF	+0.6%
	(406.5 Acres)	(409.1 Acres)	

BCC 14

Baltimore Country Club at Five Farms
Non-conforming Use Petition

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid, non-conforming country club. Component site use areas within the total tract which reflect traditional uses at the club have been designated as "golf", "outdoor recreation", "social", and "residential". Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listing is not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc., also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

Plan to Accompany Special Hearing Petition

Plan Dated 7/16/92

ıtry Club at Five Farms

BCC #4
15

Zoning Notes

Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.

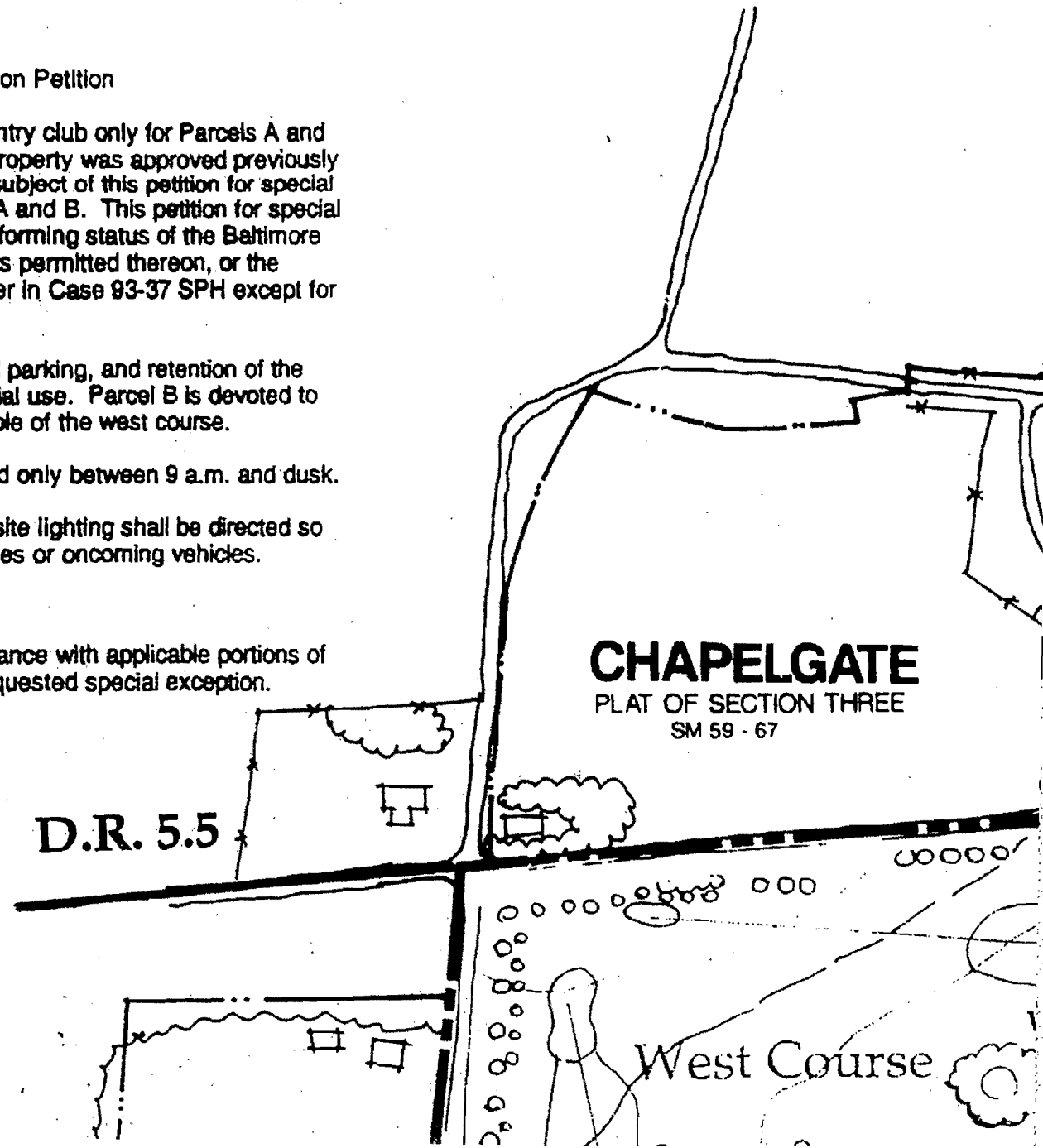
2. Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.

3. Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.

4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.

5. All paved parking spaces shall be striped.

6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.



PARCEL A SPECIAL EXCEPTION AREA
PARKING COMPUTATIONS

Number of tennis courts in Parcel A 3 courts

Baltimore County
Zoning Commissioner
Office of Planning

Suite 405, County Courts Bldg.
401 Bosley Avenue
Towson, Maryland 21204
410-887-4386

November 24, 1998

BCC
E+16

J. Carroll Holzer, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286

RE: Baltimore Country Club/Expansion/Renovations
(11500 Mays Chapel Road)
Case No. 97-384-SPH

Dear Mr. Holzer:

In response to your letter dated November 11, 1998 concerning the above-captioned matter, the following comments are offered.

As you know, my position as Deputy Zoning Commissioner does not afford me the opportunity to review applications for building permits. It is possible that a permit for the tennis court facility on the subject property could be issued without my knowledge. Therefore, I would ask that you not rely on my office as protection against the issuance of any permit for the Baltimore Country Club. However, I will reiterate my position as stated in my Order, dated March 31, 1998, that any changes to the tennis court facility to be constructed on that portion of the Country Club property identified on the site plan as the Boyce property, consisting of approximately 2.67 acres, could only be made by way of a future public hearing, or by way of consent agreement entered into between your clients and the Petitioner.

If I can be of any further assistance, please feel free to contact me.

Very truly yours,

Timothy Kotroco

TIMOTHY M. KOTROCO
Deputy Zoning Commissioner
for Baltimore County

TMK:bjs

cc: G. Scott Barhight, Esquire, Whiteford, Taylor & Preston
210 W. Pennsylvania Avenue, Suite 500, Towson, Md. 21204
Arnold Jablon; Pat Keller; George Perdakakis; People's Counsel; Case File

Printed with Soybean Ink on Recycled Paper


R.C. 5
R.C. 5
R.C. 5
R.C. 5
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D.R. 3.5
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D.R. 3.5
D.R. 3.5
D.R. 2
D.R. 1
D.R. 1
D.R. 2
D.R. 3.5
D.R. 3.5
CHAPELWOODS
BALTIMORE COUNTRY CLUB
MAYS CHAPEL RESERVOIR
HILL FARM
GREEN SPRING VALLEY N.R.H.D.
WOODWARD
AREA UNDER CONSTRUCTION
N 55,000
N 54,000
N 53,000
N 52,000
N 51,000
N 50,000
N 49,000

BCC Exhibits (2)

9.28.06

Ex 13 A-R	Maps to Accompany 12/30/03 Letter to Holzer (18 sheets total) [Bathright Kept]
Ex 14	Copy of Notes to SPH Petition dated 7/16/92 (Nonconforming use)
Ex 15	Copy of Notes to SP Ex. Petition
Ex 16	Letter From Kotroco to Holzer 11/24/98

Baltimore County Government
Department of Public Works

111 West Chesapeake Avenue
Towson, MD 21204-4604

BCC1

July 07,1992

Whiteford,Taylor and Preston
500 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515

Attention: G Scott Barhight

RE: Baltimore Country Club
Mays Chapel Road

Gentlemen:

The Development Review Committee met on July 06, 1992, to consider the plan submitted for review.

The submitted plan was determined to be in conformance with the Development Regulations of Baltimore County, as a "Limited Exemption" of Section 26-171(A)(7). Compliance with divisions 3, 4 and 5 is required as is compliance with all applicable zoning regulations.

Be advised that a special hearing is required to establish Nonconforming use for the proposal.

If you have any questions, please contact me at 887-3340.

Sincerely,

LES SCHREIBER
Devel'mt Review Comm. Coordinator
Bureau of Public Services

LCS:lcs
cc: File
Z.A.D.A.M.- Don Rascoe

BACOCLB/REFINE

RECEIVED
JUL 15 1992
WHITEFORD, TAYLOR & PRESTON

BCC #1

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

LETTER OF TRANSMITTAL

DATE November 7, 2003	JOB NO 02144
RE: Baltimore Country Club A033605	
Tennis Ct	

TO Ed Schmaus

Baltimore County DEPRM

COPIES	DATE	DESCRIPTION
2	11/04/03	Storm Water Management Study
2	10/31/03	Drainage Area Map.

NOV 13 2003

THESE ARE TRANSMITTED as checked below:

X For approval	Approved as submitted	Resubmit _____ copies for approval
For your use	Approved as noted	Submit _____ copies for distribution
As requested	Returned for corrections	Return _____ corrected prints
For review and comment		

REMARKS:

COPY TO _____

SIGNED: Solomon Shikur

14307 Jarrettsville Pike, Phoenix, Maryland 21131 Phone 410-683-3388 Fax 410-683-3389

CBA
BCC #2

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

October 27, 2003

J. Carroll Holzer, Esquire
Holzer & Lee
The 508 Building
508 Fairmount Avenue
Towson, MD 21286

Re: Baltimore Country Club - Five Farms Tennis

Dear Carroll:

Enclosed are three copies of the plans for the proposed tennis facilities at Five Farms. Representatives of Baltimore Country Club would be happy to meet with you and your clients if you would like to discuss these plans. After you have had an opportunity to discuss this with your clients, please feel free to contact me to indicate your clients' desire in this regard. If you would like to meet, please contact either me or my assistant, Sandi Leland, to coordinate scheduling.

Thank you for your kind attention to this matter.

Sincerely,

G. Scott Barhight

GSB:sll
Enclosure
cc: Baltimore Country Club

292450

CBA
BCC
BA

Box 4

Department of Environmental Protection and Resource Management

401 Bosley Avenue, Suite 416
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
David A.C. Carroll, Director

BCC 4

June 21, 2004

Mr. Jeffrey Schwab
Site Resources, Inc.
14307 Jarrettsville Pike
Phoenix, MD 21131

RE: Baltimore Country Club at Five Farms Forest Buffer Protection Plan (Revised 5/23/04)

Dear Mr. Schwab:

Environmental Impact Review (EIR) received a revised Forest Buffer Protection Plan (FBPP) for the above referenced property on June 8, 2004. This FBPP was revised in response to the EIR letter of May 21, 2004 and necessitated by the variance to allow approximately 6,000 square feet of disturbance in the Forest Buffer Easement for the construction of tennis courts and associated storm drains and utilities. The original concept plan called for well over 40,000 square feet of forest to be cleared in and adjacent to the Forest Buffer Easement. However, the tennis court project has been redesigned to reduce forest clearing to no more than 39,000 square feet. This FBPP and the subsequent revised grading/sediment control plans will reflect this reduction of disturbed forest area.

EIR has reviewed the revised plan and has determined that it addresses all previous EIR comments, including reduction of forest clearing. Therefore, EIR hereby approves the FBPP. Please submit the mylar original of the FBPP for stamping and imaging. Once it is imaged, the FBPP will be returned so you can make seven (7) paper copies thereof and submit those copies to EIR.

Please be aware that EIR cannot approve any grading permit until a planting security for the living fence is posted via an Environmental Agreement and a Single Lot Declaration of Intent is filed with DEPRM to address Forest Conservation Regulations. Finally, documentation that the Forest Buffer Easement and associated Declaration of Protective Covenants have been recorded as required by previous March 1 , 1997 variance must be provided to EIR prior to our approval of any Environmental Agreement.

THE UNION MEMORIAL HOSPITAL
BALTIMORE, MARYLAND 21218

DATE Dewitz

HISTORY/PHYSICAL EXAMINATION/PROGRESS NOTES/
CONSULTATION/DISCHARGE SUMMARY

DATE	TIME	
		Paul Spellman - GM 11/1/85
		COO
		Prev Ct, Avon CC
	Hx	Wilmington 4/77
		Hyatt SF
		Carmel 76
		Re exhibits authenticate
		BCC - unique - dual campus RP - clubhouse 10/1 - 4/15 - annual mbs FF 4/15 - 9/30 22 tennis cts, squash, paddle tennis, bowling,
		42 acres @ RP 405 acres FF - clubhouse, 36 holes golf, 3 pools, pond
		Actv FF - golf, swimming, pro shop, golf maint, storage, volleyball, playg fields, picnic, outside dining
		"social + athletic"
		Proposed plan movement of tennis to FF from RP pond, summit entry/exit.
Width size addition		Relocate swimming "small" clubhouse + addition pro shop.
		Membership ~ 3000 since 1920's - each person considered a member individually
		Each member is social first + can select seasonal memberships in sports
		1992 - 857 golf 350 swimming 125-130 tennis 60 paddle tennis 100 squash 170 bowling
		"steady" membership #'s
		No ↓ in #'s in fcst
mbrship is a season sport		Relation betwn tennis + swimming - summer sports tended had in had family summit

CBA BCC #5

BCC Exhibit No. 6

oning Notes

altimore Country Club at Five Farms Special Exception Petition

This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.

Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.

Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.

The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.

All paved parking spaces shall be striped.

Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

Number of tennis courts in Parcel A	3 courts
Parking standard	3/court
Required spaces	9 spaces
Parking spaces provided in Parcel A	11 spaces

The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.

PLAT ONE SECTION ELEVEN
SM 56 - 20
PLAT TWO OF SECTION FOURTEEN
MAYS CHAPEL VILLAGE
SM 56 -69
PLAT ONE SECTION ONE
SM 62 - 107
PLAT ONE
OAKS AT FIVE FARMS
Maintenance Entrance
D.R. 3.5
MAYFAIR
PLAT 1
6272
PEBBLE CREEK
63.55
PLAT ONE
D.R. 5.5
CHAPELGATE
PLAT OF SECTION THREE
SM 59 - 67
D.R. 5.5
Expansion Area
Staff Residence
Irrigation Pond
MAINTENANCE
Irrigation Pump House
Water Tank
Rain Shelter
West Course
East Course
Bulk Storage
R.C. 5
Rain Shelter
Rain Shelter
T. EDWARD HAMBLETON, JR.
51.95A
NONCONFORMING USE AREA
Comfort Station
Rain Shelter
Comfort Station
Staff Residence
MARTHA F. SYMINGTON
4972/322
16.22A
Mays Chapel Road
PARCEL B
(93-57 SPH)
R.C. 5
PLAT PART 1
Chapel Ridge Road
CHAPEL RIDGE
PLAT PART 2
NONCONFORMING USE AREA
Pro Shop Cart Storage
Entrance
Turf Parking/Field Sports
CHAPEL HILL
PARCEL A
(See Enlargement)
Courtney & Ruth Spies
QLB 1974-185
2.53 A±
Water Tower
West Course Maintenance Complex
Comfort Station
West Course
R.C. 5
Bomont Road
Irrigation Pond
Equipment Pump Houses
Rain Shelter
PLAT ONE
THE HILL FARM
PLAT VI
THE HILL FARM
R.C. 5
PLAT V
THE HILL FARM
PLAT NO.2 SECTION II
FALLSWOOD
Cheatlodge

PROPOSED TENNIS COURTS
LAWN
BOMONT ROAD
PROPOSED TENNIS COURT BUILDING
PARCEL A
PROPOSED SITE USE
SCALE: 1"=50'-0"

VINCINITY MAP
1" = 1000'.00"
NORTH
PHOENIX ROAD
MAYS CHAPEL ROAD
CHAPEL RIDGE
JENIFER ROAD
PARCEL B
BALTIMORE COUNTRY CLUB @ FIVE FARMS
PARCEL A
BOMONT ROAD
TIMONIUM ROAD

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 880-5400

2. Election District 8; County Council District 2

3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.

   Zoning Case 97-384-SPH. Special Exception to authorize the case of adjoining residential parcels (parcel A, the "Boyce" Property) as a country club, including three tennis courts and a parking lot

4. Zoning of the club and adjacent properties are as shown.

5. The names of adjoining subdivisions are as shown.

6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relavant to this petition and are not shown for purposes of clarity.

7. There are no signs on the country club property other than directional signs as authorized by Section 413.1E.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.

8. All streams and stormwater management areas within 50 feet are shown.

9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10 issue 92-03, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.

10. Building heights do not exceed the permitted 35 feet.

11. Parking provided under existing conditions for the total club comprises 233 spaces and 250 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.

12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.

13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970

    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890

    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3369 • fax (410) 683-3389

Plan To Accompany Special Hearing
June 18, 2004

Baltimore Country Club at Five Farms

CBA Ex 6 BCC

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1959
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: KEHOLZER@ACPL.NET

January 20, 2004
#7458

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 West Pennsylvania Avenue
Towson, Maryland 21204

RE: Baltimore Country Club

Dear Scott:

I have forwarded all of your Plans to my client's neighbors, Dow, Spies, Tubman and Terry. I would submit the following reaction received from them concerning the Club's proposal.

The Plans as presently drawn are not in compliance with our Agreement of June 14, 1993, recorded in the Land Records October 22, 1993, Liber 10086, folio 733.

The Community has reviewed the 1993 Plan, the new Plan, the 1993 Agreement, the Zoning Commissioner's Decision of 1997, and a letter from Tim Kotroco in 1998. The proposed plans are not in agreement with the 1993 Plan. The tennis courts have been increased from nine (9) to twelve (12), a tennis building has been added, and no plans are drawn for the wall specified in our Agreement.

In addition, in Zoning Case 97-384-SPH, Tim Kotroco specifically stated "should the BCC decide to alter the design and configuration of these nine (9) tennis courts and related accessory parking area from that shown on the previously approved Plan, a Special Hearing to approve the same, would absolutely be necessary." The only other option to avoid a hearing would be to enter into a new written Agreement with the neighbors who signed the original Agreement." Kotroco specifically stated that "no administrative appeal should be granted for any changes. He reiterated this Opinion in his 1998 letter.

BCC
E+7

Feb-02-04 09:46A J Carroll Holzer 410-825-4923 P.04

Dallas

BCC & A

1964 Plan

Using 1"=200' scale

Building	A	100' x 30' = 3000	3000 sf
Ex. 16 B	B	50 x 70 = 3500 50 x 110 = 5500 9000 sf	9000 sf
	C	110 x 40 = 4,400 sf	4400 sf
			16,900 sf

2002 BSW.

Ex 15 A	A	100 x 60 = 6000 sf 100 x 50 = 5000 sf 70 x 30 = 2100 sf	13,100 sf
	B	45 x 110 = 4950 45 x 110 = 4950 55 x 90 = 4950	14,850
	C	110 x 40 = 4400 110 x 50 = 5500 9900	9,900
			37,850

1997 GIS

	A	50 x 60 = 3000 sf	3000
	B	45 x 110 = 4950 45 x 110 = 4950 55 x 90 = 4950	14,850
	C	110 x 40 = 4400 110 x 50 = 5500 9900	9,900
			27780

1964 · Aerial map from Md Geo Surv.
MAP ASO 20D-227 Flown 5-12-64

BCC 8B

taking 4 measurements from various points

	from original map @ 1" = 20,000'		from blowup map.		Ratio
1.	4.25 mm	/	35.5 mm	=	8.35 mm
2.	12.5 mm	/	108 mm	=	8.64 mm
3.	8	/	67.0	=	8.38 mm
4.	16	/	133-134	=	8.38 mm

$\frac{33.72}{4} = 8.43$ mm Ave

$\frac{20,000}{8.43} = \frac{2370.37}{12"} = 197.53'/in$

$\frac{20,000}{8.351} = \frac{2393.489}{12"} = 199.45'/in$

BCC 9

Michael W. Fisher

Principal

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

Mr. Fisher's experience working closely with allied professionals such as architects, engineering and environmental specialists has provided him with unique opportunities to understand the full range of skills required to provide the complete scope of services needed for today's sophisticated development. It has also equipped him to coordinate the various site-related services involved in a project. Specific experience includes both public and private projects. Public work has included educational facilities, community centers, public buildings, fire protection and fire training facilities, parks and libraries, as well as federal government research and development facilities, and state institutions. Mr. Fisher has extensive experience with campus design for private schools, higher education campuses, hospitals, and large scale recreation facility planning. He maintains extensive knowledge of local policies and procedures for many of the counties throughout Maryland.

Professional Registration

Landscape Architect – Maryland, No. 544
Board Member – Maryland State Board of Examiners for Landscape Architecture, Appointed 2003

Education

B.S., Landscape Architecture, PA State University, 1978
B. Landscape Architecture, PA State University, 1979

Continuing Education

Intergraph Computer Training - IDGS
Americans with Disabilities Act Seminar
JHU Seminar on Continuing Care and Retirement Communities
Land Stewardship Symposium - Longwood Gardens
The Dale Carnegie Course
The Harford Leadership Academy
Forest Conservation Act Seminar

Professional Associations

American Society of Landscape Architects
Building Congress and Exchange
Maryland Chamber of Commerce
Harford County Chamber of Commerce
Cecil County Chamber of Commerce

Years Experience

With this firm: 10
With other firms: 15

Professional Background

Site Resources, Inc.
Land Planners/Landscape Architects/ Civil Engineers
Phoenix, Maryland
Principal, 1994 - Present

Daft McCune Walker, Inc.
Landscape Architects/ Planners/Engineers
Towson, Maryland
Senior Associate, 1986-1994

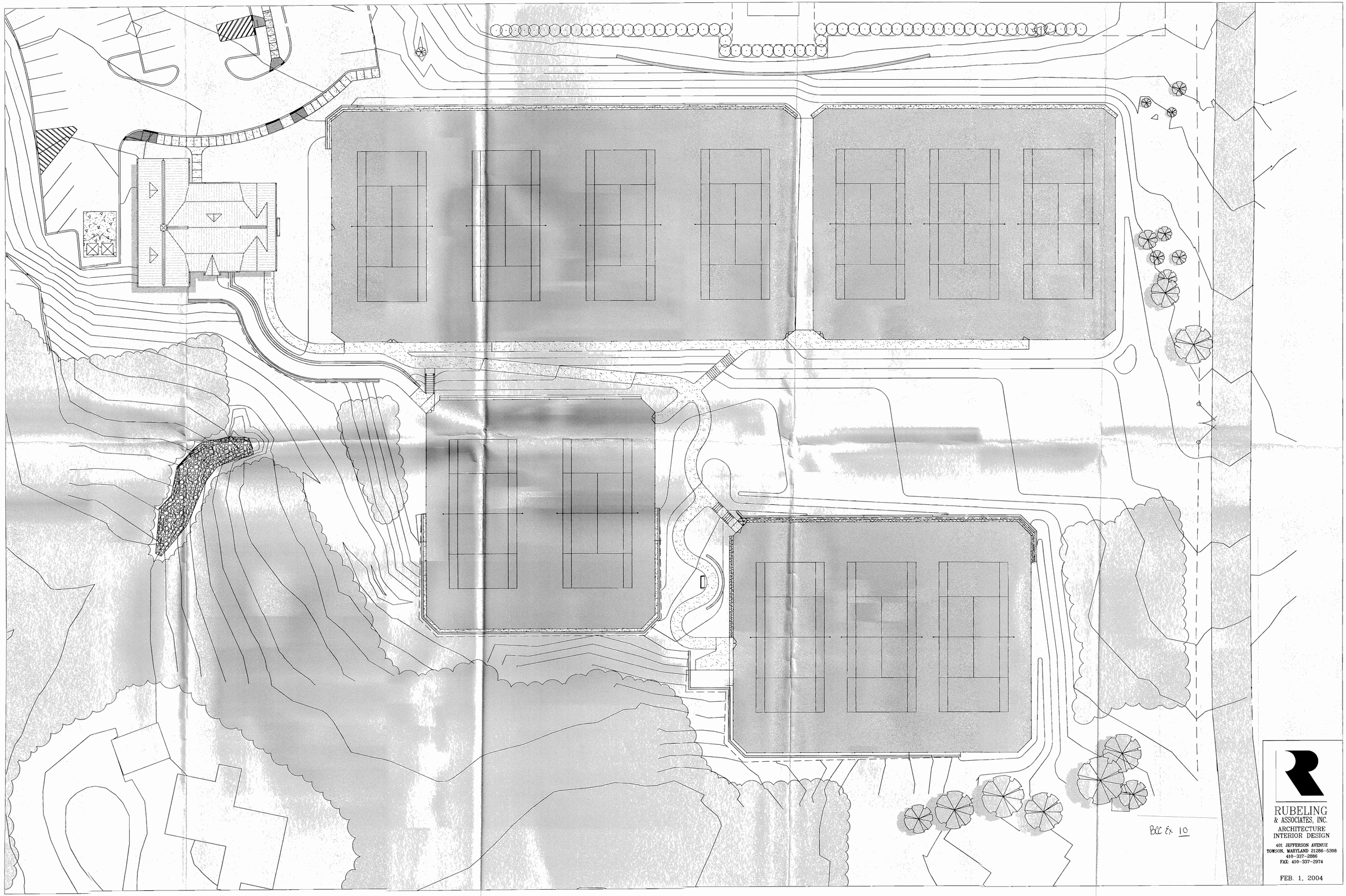
Gaudreau, Inc.
Architects/Planners/Engineers
Baltimore, Maryland
Associate 1981-1986

David L. Gregory & Associates
Engineers/Landscape Architects
Towson, Maryland
Landscape Architect 1979-1981

Smith/Kirwin, Inc.
Landscape Architects
Towson, Maryland
Landscape Architect 1978-1979

Representative Experience

Towson Golf & Country Club – zoning assistance
Valley Motors – zoning assistance
Franklin Square Hospital Center – zoning assistance
St. Joseph Medical Center – zoning assistance
Shawan Downs – zoning assistance



BCC Ex 10

RUBELING
& ASSOCIATES, INC.
ARCHITECTURE
INTERIOR DESIGN

401 JEFFERSON AVENUE
TOWSON, MARYLAND 21286-5308
410-337-2886
FAX 410-337-2974

FEB. 1, 2004

Zoning Notes

Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.
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4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.
5. All paved parking spaces shall be striped.
6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

1.	Number of tennis courts in Parcel A	3 courts
2.	Parking standard	3/court
3.	Required spaces	9 spaces
4.	Parking spaces provided in Parcel A	11 spaces
5.	The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.	

PLAT ONE SECTION ELEVEN
SM 62 - 107 PLAT ONE
OAKS AT FIVE FARMS
Maintenance Entrance
PEBBLE CREEK
63/55
D.R. 5.5
D.R. 3.5
MAYFAIR
PLAT 1
62/72
SM 56 - 20
PLAT TWO OF SECTION FOURTEEN
MAYS CHAPEL VILLAGE
SM 56 -69
PLAT 1 SECTION ONE
CHAPELGATE
PLAT OF SECTION THREE
SM 59 - 67
D.R. 5.5
Expansion Area
Staff Residence
Irrigation Pond
MAINTENANCE
Irrigation Pump House
Rain Shelter
West Course
Water Tank
East Course
Bulk Storage
R.C. 5
Rain Shelter
T. EDWARD HAMBLETON, JR.
51.55A
Timonium Road
NONCONFORMING USE AREA
Comfort Station
Rain Shelter
Comfort Station
Staff Residence
MARTHA F. SYMINGTON
4972/322
16.22A
Mays Chapel Road
PARCEL B
SPECIAL EXCEPTION AREA
R.C. 5
Ridge Road
Chapel Ridge Court
Entrance
Turf Parking/Field Sports
CHAPEL HILL
PLAT PART 1
CHAPEL RIDGE
PLAT PART 2
NONCONFORMING USE AREA
Pro Shop Cart Storage
PARCEL A
(See Enlargement)
SPECIAL EXCEPTION AREA
Courtney & Ruth G. Spies
GLB 1974-157
2.53 AC±
Comfort Station
Water Tower
West Course
West Course Maintenance Complex
R.C. 5
TENNIS COURTS (REF: 59/1)
RET. WALL TYP.
TENNIS COURTS (REF: 59/1)
TENNIS COURTS (REF: 59/1)
RET. WALL TYP.
FORMERLY BOYER 2.567 AC±
SHED
BOMONT ROAD
Irrigation Pond
Equipment Pump Houses
Rain Shelter
PLAT VI
THE HILL FARM
R.C. 5
PLAT V
THE HILL FARM
PLAT ONE
THE HILL FARM

PLAT NO.2 SECTION II
FALLSWOOD
Chestnut

VINCINITY MAP
1" = 1000'.00"
NORTH
PARCEL B
BALTIMORE COUNTRY CLUB @ FIVE FARMS
PARCEL A
MAYS CHAPEL ROAD
CHAPEL RIDGE
JENIFER ROAD
BOMONT ROAD
TIMONIUM ROAD

PARCEL A
PROPOSED SITE USE
SCALE: 1"=50'-0"

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400

2. Election District 8; County Council District 3
3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.
4. Zoning of the club and adjacent properties are as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.
7. There are no signs on the country club property other than directional signs as authorized by Section 413.1E.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
8. All streams and stormwater management areas within 50 feet are shown.
9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

NOTE: REDLINE REVISIONS BY SITE RESOURCES INC. APRIL 23, 2004

Daft·McCune·Walker, Inc.

MAY 3, 1993 REVISED JUNE 11, 1993

STATE OF MARYLAND — DAVID LAROSCHE ARCHITECT — NO. 886

BCC Ex 11

Parcel A & B Plan to Accompany
Special Exception Petition

Baltimore Country Club at Five Farms

Two of Two

BCC12

Baltimore Country Club — December 8, 2023

Tennis Court Addition

This office has reviewed the information submitted and the runoff curve numbers and time of concentration remain essentially the same with the proposed changes. Therefore, the stormwater management that is in place provides management for the new layout.

Edward Schmaus

WHITEFORD, TAYLOR & PRESTON L.L.P.

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

AUDRA TROULAND CATHELL
DIRECT NUMBER
410 832-2025
acathell@wtplaw.com

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410-832-2015
www.wtplaw.com

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

September 23, 2005

VIA HAND DELIVERY

Ms. Kathleen C. Bianco
County Board of Appeals of Baltimore County
Room 49, Old Courthouse
400 Washington Avenue
Towson, Maryland 21204

Re: Case Nos.: 04-600-SPH; 04-508-SPH
BCC Exhibit 13

Dear Ms. Bianco:

Enclosed for the Board's file, please find BCC Exhibit No. 13, plans dated 12/24/03 (sheets 1-18).

Please contact me if you have any questions or concerns. Have a great weekend.

Sincerely,

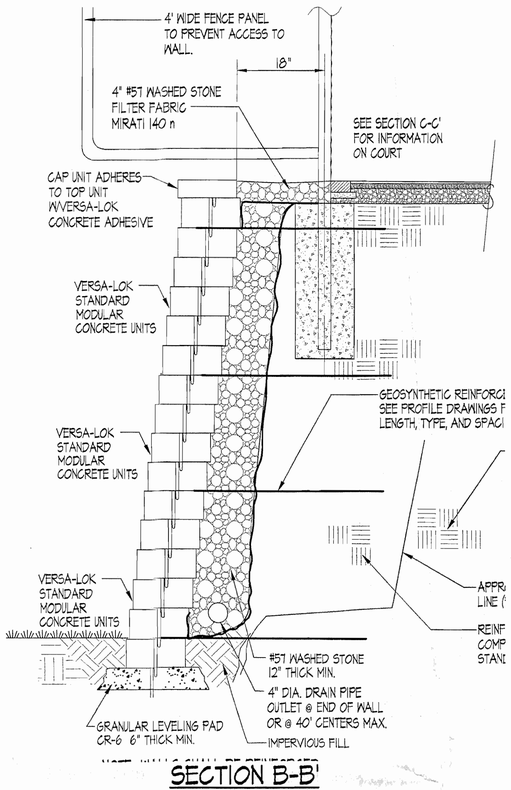
A. Cathell

Audra Trouland Cathell

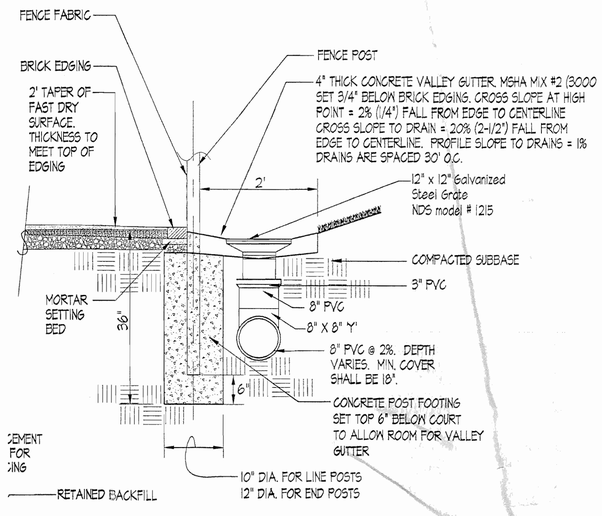
ATC:ac
Enclosure
cc: G. Scott Barhight, Esq.
J. Carroll Holzer, Esq.

344571

RECEIVED
SEP 23 2005
BALTIMORE COUNTY
BOARD OF APPEALS

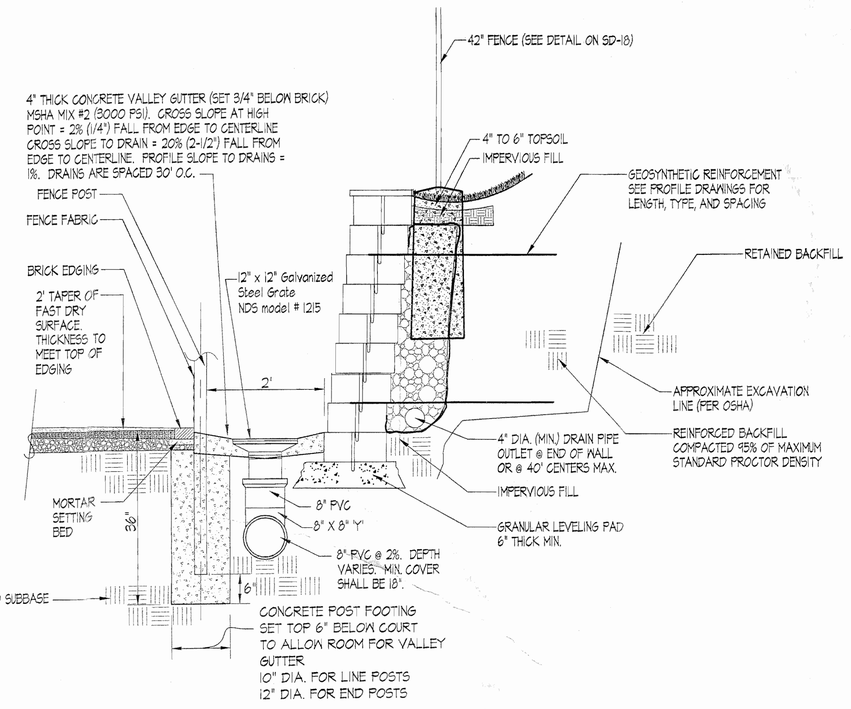


SECTION B-B'
NOT TO SCALE



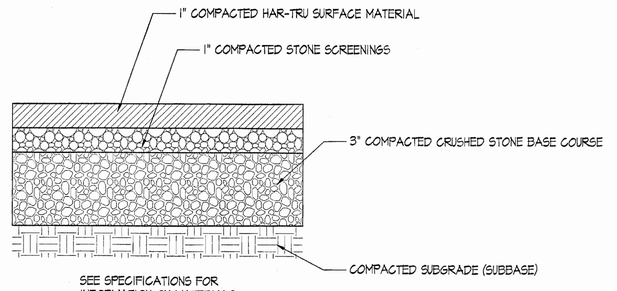
SECTION C-C'
NOT TO SCALE

VALLEY GUTTER & DRAINAGE, COURT EDGING, AND FENCE POST FOOTING



SECTION D-D'
NOT TO SCALE

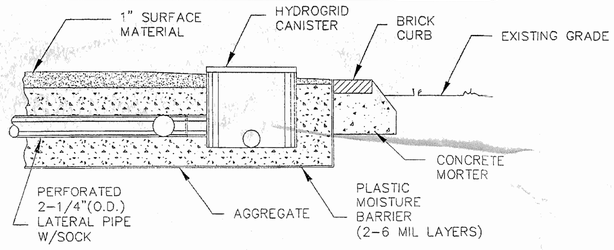
TENNIS COURT - BASE BID



SEE SPECIFICATIONS FOR INFORMATION ON MATERIALS

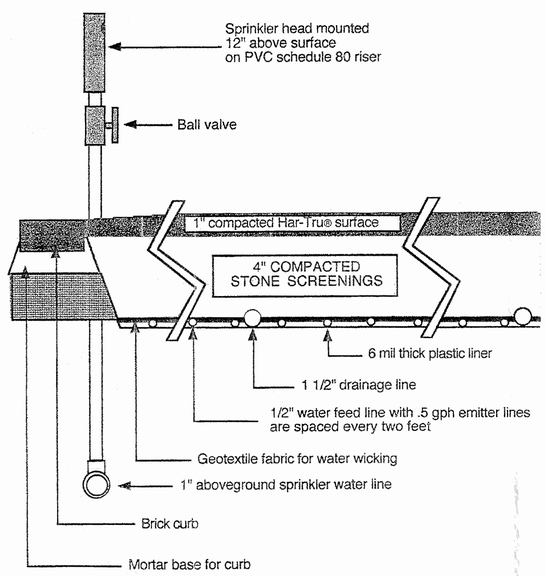
HAR-TRU COURT SURFACE
NOT TO SCALE

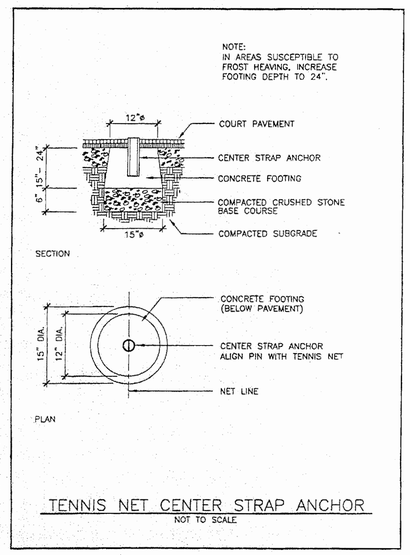
TENNIS COURT - ALTERNATE 10



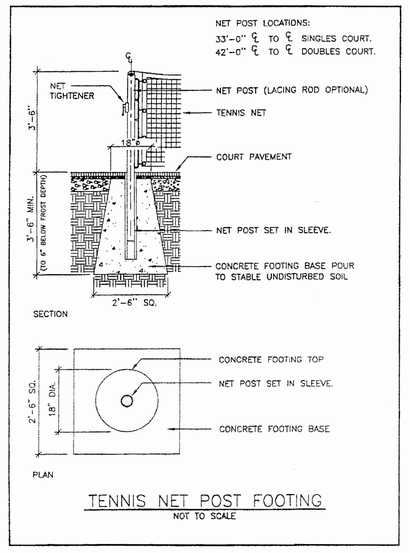
2 SECTION - HYDROGRID COURT
SCALE: N.T.S.

TENNIS COURT - ALTERNATE 10-A
PROFILE OF AQUAGRID PLUS TENNIS COURT





TENNIS NET CENTER STRAP ANCHOR
NOT TO SCALE



TENNIS NET POST FOOTING
NOT TO SCALE

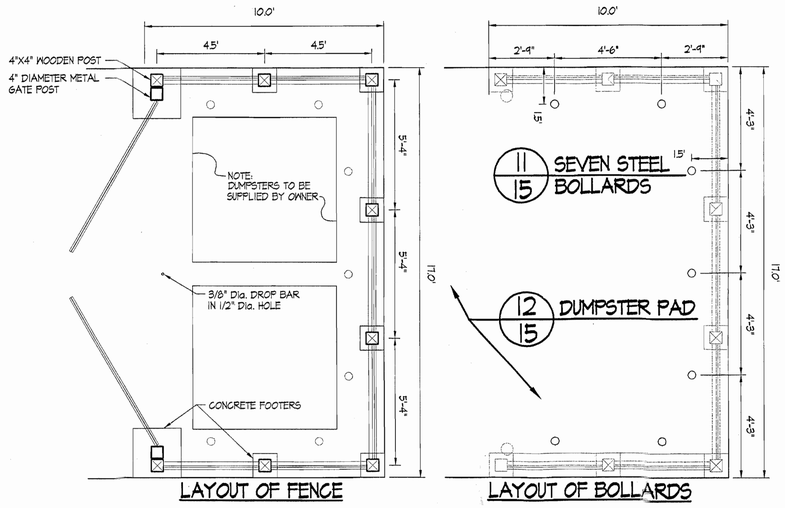
Tennis Court Details

Baltimore Country Club Tennis Facility
BALTIMORE COUNTY, MD
REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	JGT	SCALE:	AS SHOWN
CHECKED BY:	JGT	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-17 OF SD-18

- Copyright Site Resources, Inc.
12/24/03 3:50 PM SD-1_SiteFtrs.dwg

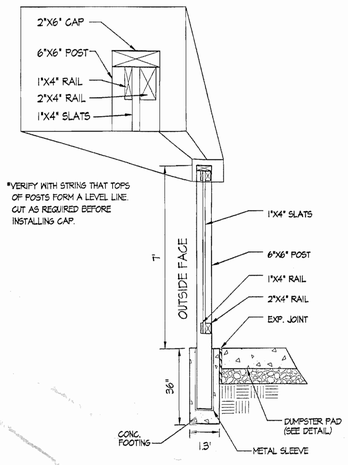


LAYOUT OF FENCE

LAYOUT OF BOLLARDS

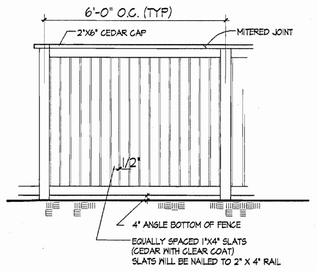
10 DUMPSTER FENCE AND BOLLARD LAYOUT

NOT TO SCALE



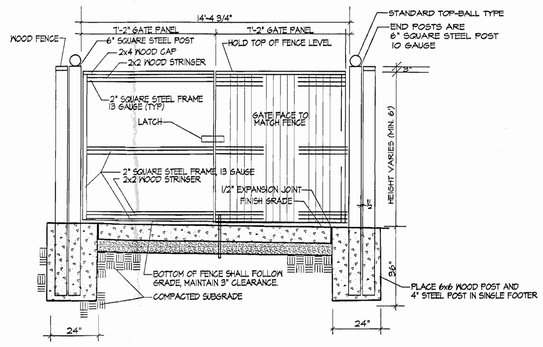
FENCE SECTION

COATING: FENCE SHALL HAVE A GALVANIZED UNDERCOAT INSIDE AND OUTSIDE ALL FENCE COMPONENTS SHALL BE GIVEN A FOUR-STAGE POWER WASH AS PRETREATMENT FOR THE FINISH COAT. STAGE 1: ALL METAL IS RINSED IN WATER SO THAT SURFACE IS WATER BREAK FREE. STAGE 2: ALL METAL SHALL BE GIVEN AN IRON PHOSPHATE PRETREATMENT AT 130 MG. TO INSURE ADHESION. STAGE 3: ALL METAL SHALL BE THOROUGHLY RINSED IN A DEIONIZED WATER RINSE TO REMOVE CHEMICALS. STAGE 4: ALL METAL SHALL RECEIVE A A CHROMATED SEAL, BAKED TO ASSURE THE BEST SURFACE FOR PAINTING. ALL METAL SHALL THEN BE GIVEN A POLYESTER RESIN BASED POWDER COATING APPLIED BY ELECTROSTATIC SPRAY PROCESS, TO A THICKNESS OF 2.5 MILS. THE FINISH SHALL THEN BE BAKED IN AN OVEN AT 450 DEGREES (METAL TEMPERATURE) FOR 20 MINUTES.
COLOR OF ALL POSTS AND FRAME SHALL BE SELECTED BY ARCHITECT.

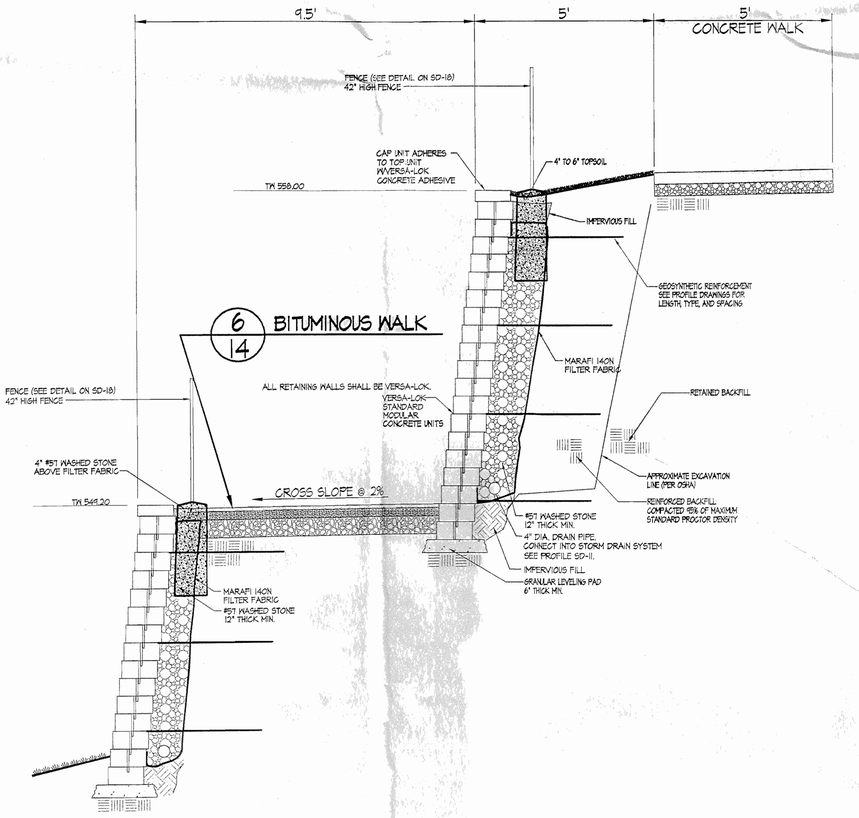


FENCE ELEVATION

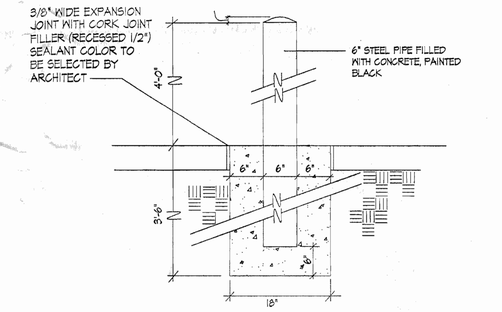
1. GATE FRAMES SHALL BE MADE OF 2" SQUARE STEEL TUBE, WALL THICKNESS 13 GAUGE (.095") PER ASTM A513.
2. ALL GATES SHALL BE EQUIPPED WITH GALVANIZED STEEL HINGES & LATCHES. DOUBLE GATES SHALL HAVE A DROP BAR AND HOLDBACK.
3. POSTS SHALL BE 4" SQUARE STEEL TUBING, 12 GAUGE SET IN 18"x18"x30" CONC. FOOTER. THE CENTER GATE POST SHALL BE 6" SQUARE STEEL POST, 11 GAUGE, SET IN A 24"x24"X36" CONCRETE FOOTER.
4. 2x2 WOOD STRINGERS SHALL BE ATTACHED TO METAL GATE FRAME USING GALVANIZED SCREWS.
5. WOOD STRINGERS SHALL BE PRESSURE TREATED. WOOD SLATS AND CAP SHALL BE CEDAR WITH TWO COATS OF STAIN (COLOR TO BE SELECTED BY ARCHITECT).
6. PATTERN EACH GATE PANEL: (1) 1x8, (3) 1x4's, (1) 1x8, (4) 1x4's, (1) 1x8, (3) 1x4's (1) 1x8 AND ATTACH 1x8's AND 1x4's TO WOOD STRINGERS USING 2" GALVANIZED DECK SCREWS.



GATES



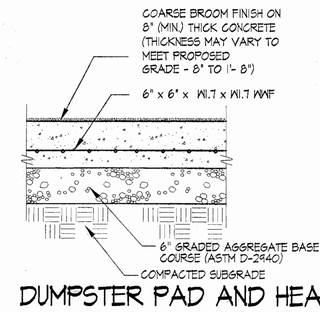
SECTION A-A'
SCALE: 1" = 2'



11 STEEL BOLLARD

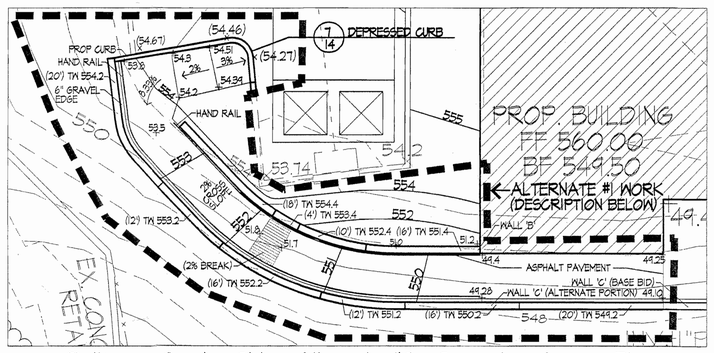
SEE CONCRETE STAIRS DETAIL 9 ON SD-14 FOR PAINTING SPECIFICATIONS

NOT TO SCALE



12 DUMPSTER PAD AND HEAVY DUTY CONCRETE PAVING DETAIL

NOT TO SCALE



Baltimore Country Club - Alternate #9 - Secondary Access Plan



SCALE: 1"=10'

ALTERNATE #1 INCLUDES:

1) REMOVING AND REPLACING EXISTING CONCRETE CURB (DETAIL 2, SD-14) TO PERMIT A.D.A. ACCESS AND TO RETAIN THE EXISTING PARKING SPACE (NOTE EXISTING ELEVATION 54.67) ABOVE ADJACENT TO NEW WALK (ELEVATION 53.8)
2) VERSA-LOK RETAINING WALLS 'B' AND 'C' (PORTION SHOWN).
3) BITUMINOUS WALK (DETAIL 6, SD-14).
4) HAND RAILS (MATCHING STEP RAILS, DETAIL 9, SD-14) ON BOTH SIDES OF RAMP.
5) ASSOCIATED GRADING, SEEDING, AND MULCH.

SEDIMENT CONTROL MEASURES ARE PART OF THE BASE BID.
DETAILS AND SPECIFICATIONS FOR ALTERNATE #1 IMPROVEMENTS ARE CONTAINED IN THE BASE BID

Site Details & Alternate #1

Baltimore Country Club Tennis Facility

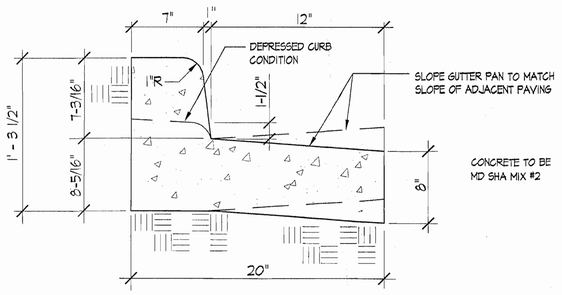
BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3286 • fax (410) 683-3389

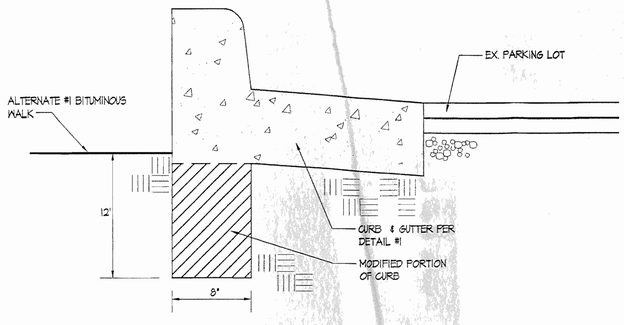
DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	JGT	SCALE:	AS SHOWN
CHECKED BY:	JGT	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-16 OF SD-18

- Copyright Site Resources, Inc.
11/06/03 9:00 AM SD-15_Site Details.dwg



1 CONCRETE CURB & GUTTER

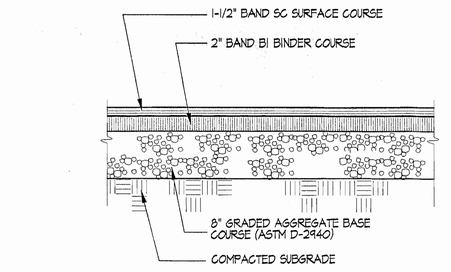
NOT TO SCALE



2 CONCRETE CURB & GUTTER FOR ALTERNATE #9

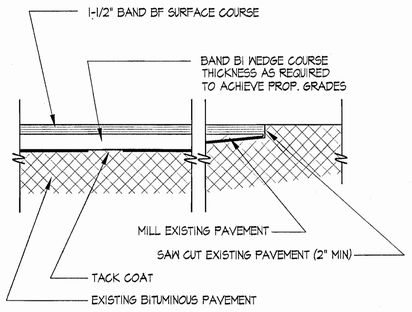
NOT TO SCALE

THIS DETAIL MODIFIES THE STANDARD CURB AND GUTTER BY EXTENDING THE CURB PORTION DOWN SO THAT IT IS AT LEAST 12" DEEPER THAN THE BITUMINOUS WALK BEHIND (AND ADJACENT TO) THE CURB. THE BACK OF THE CURB SHALL BE PROPERLY FINISHED SINCE IT WILL BE EXPOSED AND VISIBLE.



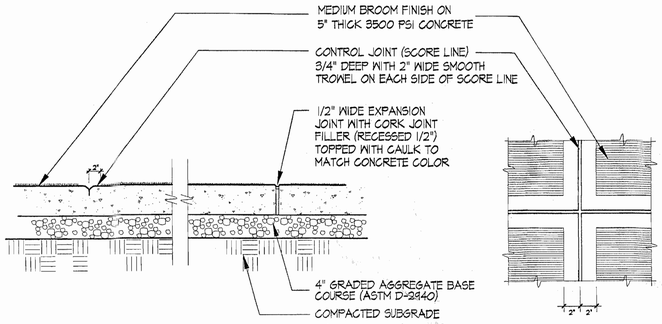
3 BITUMINOUS PAVMENT

NOT TO SCALE



4 BITUMINOUS PAVEMENT OVERLAY

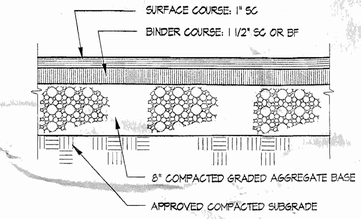
NOT TO SCALE



5 CONCRETE SIDEWALK

NOT TO SCALE

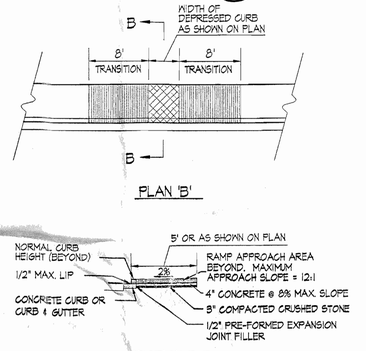
EXPANSION JOINTS AND SCORE LINES SHALL BE IN THE LOCATIONS AND ALIGNMENTS AS SHOWN ON THE PLAN. LINES CONNECTED TO A CURVE SHALL BE RADIAL. IF NO LINES ARE SHOWN IN PLAN VIEW, PLACE SCORE LINES 4' TO 5' O.C., AND EXPANSION JOINTS APPROXIMATELY 20' O.C.



6 BITUMINOUS WALK

NOT TO SCALE

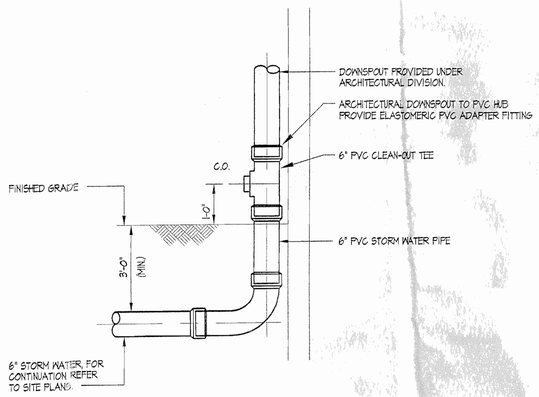
THIS DETAIL APPLIES TO SERVICE PATH BETWEEN THE SOUTH SIDE OF NEW BUILDING AND TENNIS COURT #8, AND ALTERNATE #11.



SURFACE TEXTURE OF ALL CONCRETE RAMPS SHALL BE COARSE BROOMING OR OTHER NON-SKID TYPE FINISH

7 CURB RAMP

NOT TO SCALE



8 DOWNSPOUT BOOT DETAIL

NOT TO SCALE

NOTES

1. Unless otherwise noted, painted railing shall be furnished.
2. Railings and posts to be painted shall conform to A.S.T.M. Designation A-36. See painting notes.
3. Railing and posts to be galvanized shall conform to A.S.T.M. Designation A-441. Galvanized railings shall be hot-dip galvanized after fabrication.
4. Handrails are required for stairs with three (3) or more risers. Stairs having a step width of 40 inches or less shall have handrail on one side only, unless otherwise noted. Step widths greater than 5' require an intermediate handrail.
5. Railing shall be all welded, with all joints ground smooth and free of burrs.
6. Railing posts shall be set in 8" deep metal sleeves which shall be filled with hot poured lead or hot poured sulfur or an equivalent epoxy compound.
7. This handrail is to be used only for pedestrian protection. Use Traffic Barrier W-Beam where vehicular protection is required.
8. The railing shall be paid for at the Unit Price bid per Linear Foot, measured horizontally, for "Standard Pipe Railing", complete in place; or its cost shall be included in the Cubic Yard price bid for "Mix #_ Concrete for Steps & Miscellaneous Structures", complete in place.

PAINTING NOTES

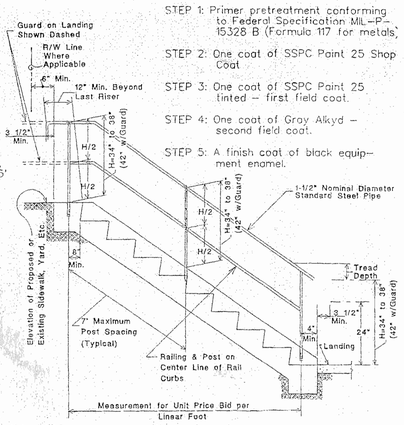
STEP 1: Primer pretreatment conforming to Federal Specification MIL-P-15328 B (Formula 117 for metals).

STEP 2: One coat of SSPC Paint 25 Shop Coat.

STEP 3: One coat of SSPC Paint 25 tinted - first field coat.

STEP 4: One coat of Gray Alkyd - second field coat.

STEP 5: A finish coat of black equipment enamel.



9 CONCRETE STAIRS WITH CHEEK WALL AND RAILINGS

NOT TO SCALE

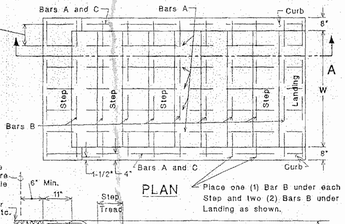
TABLE A: STAIRWAYS		
Slope	Riser	Step Tread
2:1	6"	12"
1:1	7"	11"

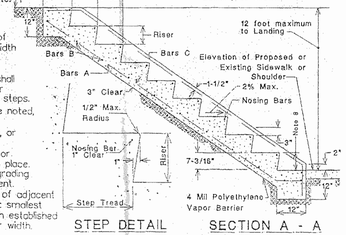
* 11" Minimum per BOCA

TABLE B: NUMBER OF BARS									
NO. OF STEPS: * WIDTH W	N=1-5	N=6	N=7	N=8	N=9	N=10	N=11	N=12	N=13-25
W=4'	5	6	7	7	8	8	9	10	

* N indicates the number of steps exclusive of "Landing". For other widths, the approximate spacing of Bars A in inches will be equal to 80 / N with a minimum spacing of 6".

Bars A to be equally spaced. For number of bars, see Table B.





NOTES:

1. Concrete is Mix No. 2. Chamfers shall be 3/4" x 3/4".
2. Stair width W shall be in compliance with BOCA, latest edition, for means of egress stairway. Least dimension of landings shall not be less than req'd. width W of stairway, except 4' maximum for straight run between landings.
3. Reinforcing Steel per ASTM A-615.
   All reinforcement shall be No. 4 Bars, except Nosing Bars. Nosing Bars shall be No. 3 or No. 4 bars and shall be placed in all steps regardless of stair length. Bars A, B, and C shall be used in installations of six (6) or more steps.
4. Exposed surfaces shall receive an ordinary Surface Finish. Unless otherwise noted, all treads shall be finished with a lightly broomed finish.
5. For railing details, see "Ornamental Railing for Concrete Stairs", Plate G-12, or "Pipe Railing for Concrete Stairs", Plate G-10.
6. The stairs shall be paid for based upon the unit price bid per cubic yard for "Mix No. _ Concrete for Steps and Miscelaneous Structures", complete in place.
7. Step treads and Landings shall be graded to drain, but in no case should grading exceed two (2) percent in any direction following curing and any settlement.
8. Tolerances: 3/16" Max. variation in depth of adjacent treads or in height of adjacent riser. 3/8" max. variation between largest & smallest riser or largest & smallest tread in any flight of stairs. At sloping public way serving as landing with established grade, bottom riser's height may vary 3 inches or less in 3 feet of stair width.

Site Details

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	JGT	SCALE:	AS SHOWN
CHECKED BY:	JGT	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-15 OF SD-18

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PARKING SPACE (TYP.)

5/14 CONCRETE WALK

EX. MACADAM PAVING

℄

PROP. F.H.

PROP. ELEC.

PROP. 8" WATER

DEPRESS

PROPOSED RESTRIPING

C.O.

4" SAN.

5' R

HATCHING INDICATES RAMP PORTION OF WALK

PROP. BUILDING
FF 560.00
BF 549.40

10/15 DUMPSTER PAD & FENCE
(DUMPSTERS SUPPLIED BY OTHERS)

3/15 BITUMINOUS WALK

EX. CONCRETE BLOCK RETAINING WALL

LOCATION OF BASE OF WALL VARIES DEPENDING ON GRADE

WALLS 'C' AND 'D' SEE SECTION A-A' ON SD-15

6"TREE

1/14 CONC. CURB & GUTTER

3" DRAINS @ 30' O.C. (TYP.)

SD/16 CONC. VALLEY GUTTER SEE SECTION C-C'

TW 561.0

WALL 'I' ABUT VALLEY GUTTER

ANGLE FENCE FROM 10' TO 42" HEIGHT (TYP.)

70' OF 36" FENCE

SAN. MH-1

CABANA (N.I.C.)

COURT #1

3' PEDESTRIAN GATE CENTER OF COURT

INSTALL FENCE ON TOP OF WALLS SEE 'C' & 'D' DETAIL ON SD-17

ALTERNATE #11 BEGINS EAST OF THIS LIN

5/14 CONCRETE WALK (ALTERNATE # 11 SUBSTITUTES BITUMINOUS WALKS; DETAIL 3)

6' EQUIPMENT ACCESS GATE

9/14 CONCRETE STAIRS
11 - 7" RISERS
10 - 11" TREADS

TW 558.0

TW 549.2

TW 550.2

5' WALK

FILL 6" SPACE BETWEEN BACK OF WALL AND BITUMINOUS PAVEMENT WITH 4" GRAVEL ON FILTER CLOTH. CARRY GRAVEL DOWN TO WALL DRAINAGE SYSTEM. SEE SECTION A-A'

STEP DOWN WALL @ 4' (HOR): 1' (VERT). FINAL SECTION TW 554.0

NDS TRENCH DRAIN

6' EQUIPMENT ACCESS GATE
SET GATE TO EDGE OF WALK AS SHOWN

4" GRAVEL ON FILTER FABRIC (CARRY UNDER SHED)

5/14 CONCRETE WALK

SHED (N.I.C.)

5/14 CONCRETE WALK
ALTERNATE #3 - BITUMINOUS WALK (ENDS AT TOP OF STEPS)

9/14 CONC. STAIRS
TWO SETS OF STEPS EACH HAVING
4 - 6" RISERS
3 - 12" TREADS

WALL 'G'

CONC. VALLEY GUTT
SEE SD-16

3' PEDESTRIAN GAT

NDS 3" ROUND GRA
TRENCH DRAINS (TY

WALL 'H'
R = 16'
L = 35.84'

6' BENCH
EXTEND WALK UNDER BENCH AS SHOWN

CONC. VALLEY GUTTER
SEE SECTION C-C' ON SD-16

NDS 3" GRATE
543.00

ALIGN EDGE OF WALK WITH CENTER OF COURT

COURT #10

ALTERNATE #3 ENDS HERE

50' OF 42" HIGH FENCE

6' EQUIPMENT ACCESS GATE
ALIGN WITH CENTERLINE OF WALK

4" GRAVEL ON FILTER FABRIC (CARRY UNDER SHED)

SD/16 SEE SECTION B-B' ON SD-16

CURVE TABLE FACE OF WALL

LAYOUT IS BASED ON FACE OF TOP OF WALL.

WALL	RADIUS	ARC LENGTH
C-1	12'	15.94'
C-2	43'	56.21'
D-1	20'	20.73'
D-2	35'	45.75'
D-3	21'	16.54'

ALTERNATE WALLS - SEE SPECIFICATIONS

B-1	6'	5.59'
C-3	10'	6.37'
C-4	40'	32.33'

NORTH

Plan Enlargements

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

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DATE:	12/24/03	SHEET	SD-14 OF SD-18

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EAST-WEST LAYOUT

BEGIN THE EAST-WEST LAYOUT OF THE BUILDING & COURTS AT SOUTHWEST CORNER OF THE EX. POOL BUILDING. GO 88.20' DUE WEST AND DRIVE A PK NAIL INTO THE PAVEMENT TO MARK THE NORTH-SOUTH AXIS THAT RUNS THROUGH THE FRONT BUILDING ENTRANCE DOOR.

EX. POOL BUILDING

EX. BASKETBALL COURT

EX. MACADAM PAVING

WOOD WALL

BGE TRANSFORMER ON CONCRETE PAD

RP FOR FACE OF CURB
RP IS 3.49' DUE NORTH OF P.K. NAIL.
R = 109.69'
ARC L = 112.44'

P.O.B.

P.K. NAIL

88.20'

WALL 'A'
R = 350.00'
ARC L = 165.71'

POOL #1

POOL #2

POOL #3

TIE NEW FENCE INTO BUILDING CORNER

STAKE OUT FENCE TO FOLLOW CONTOUR. OBTAIN APPROVAL OF SITE RESOURCES BEFORE INSTALLATION.

EX. CURB & GUTTER

RAMP
SECTION A-A'

CONCRETE WALK

BITUMINOUS PAVEMENT/ OVERLAY

CONC. CURB & GUTTER

EX. MACADAM PAVING

EX. CURB & GUTTER

EX. BUILDING FF 360.00 BF 344.40

BITUMINOUS WALK

CHECK NORTH-SOUTH STAKEOUT. MEASURE FROM CENTER OF EXISTING MANHOLE TO NORTH EDGE OF COURT #2

34.61+/-

4' BLACK VINYL CHAIN LINK FENCE
ALTERNATE #12 - ORNAMENTAL METAL FENCE

TENNIS COURT SECTION
COURT SURFACE & EDGING
CONC. VALLEY GUTTER AND DRAINAGE

142°

COURTS 1-4 CORNERS: 8.20'

230'
SPACE POSTS 10'-0" O.C.

CONNECT CORNERS OF COURTS #4 AND #5 WITH 10' FENCE

THERE SHALL BE NO FENCE ON THE EAST SIDE OF COURT #4

CONCRETE WALK - NOTE THAT FRONT WALK IS NOT PART OF ALTERNATE #1

CABANA (NIC)

COURT #1 | COURT #2 | COURT #3 | COURT #4

ALTERNATE #14 - REDUCE WIDTH OF COURTS 1 - 4 FROM 10 TO 24'3" TO 204' BY MAKING SPACES BETWEEN AND ON SIDES OF COURTS 12'.

243'

SPACE POSTS 10'-0" O.C.

13.5' | 36' STD. COURT WIDTH | 24' | 120' | 24' | 24' | 13.5'

30'

6' EQUIPMENT ACCESS GATE

BITUMINOUS WALK

CONCRETE WALK
ALTERNATE #1 - BITUMINOUS WALK

CONCRETE STAIRS

SEE SD-15 FOR ALTERNATE #1 TO CONSTRUCT SECONDARY ACCESS IN THIS LOCATION.

NORTH-SOUTH BLDG. LOCATION:
ALIGN CENTER OF PORCH WITH CENTER OF TENNIS COURTS

NOTE THAT WALK FROM BUILDING TO THE SOUTHWEST CORNER OF COURT #1 IS NOT PART OF ALTERNATE #1.

R=17.50'

CONCRETE WALK

105.86'
SPACE POSTS EVENLY @ 9.52' O.C.
6' EQUIPMENT ACCESS GATES

TRANSITION FENCE FROM 42" TO 10'

4 SECTIONS OF 36" HIGH FENCE

TRANSITION FENCE FROM 42" TO 10'

INSTALL 4' x 6' HIGH FENCE PANEL TO PREVENT ACCESS TO RETAINING WALL

COURT #8 | COURT #9

105.86'
13 SPACE POSTS EVENLY @ 8.52' O.C.

36' STD. COURT WIDTH | 24' | 12'

COURTS 8 & 9 CORNERS: 45° CORNER (L=10')

17.67'

TENNIS COURT SECTION

WALL LAYOUT IS BASED ON TOP OF WALL

BASE OF WALL
THE LOCATION OF THE BASE OF WALL 'E' VARIES BASED CHANGES IN THE BOTTOM OF WALL ELEVATION.

WALL 'E'
THE INSIDE TOP OF WALL 'E' IS 18" FROM THE CENTERLINE OF THE FENCE SURROUNDING COURTS 8 AND 9. FILL AREA BETWEEN WITH 4" OF GRAVEL ON FILTER CLOTH. SEE NOTE.

NORTH

NORTH-SOUTH LAYOUT

BEGIN THE NORTH-SOUTH LAYOUT OF THE BUILDING & COURTS AT PROPERTY CORNER. VERIFY LAYOUT BY MEASURING DISTANCE FROM THE NORTH SIDE OF COURT #2 TO THE CENTER OF THE EXISTING STORM DRAIN MANHOLE.

R=20.00' L=41.54'

R=20.00' L=21.78'

R=5.00' L=3.51'

9' R

2.13'

CONCRETE WALK
ALTERNATE #1 - BITUMINOUS WALK

6' WIDE CONCRETE WALK

CONCRETE STAIRS

WALL 'G'
THE BASE OF WALL 'G' SHALL BE 2' CLEAR OF THE FENCE

TENNIS COURT SECTION
COURT SURFACE & EDGING
CONC. VALLEY GUTTER AND DRAINAGE

141.86
SPACE POSTS EVENLY @ 9.46' O.C.

155'

41'

95.11'

95.11'
SPACE POSTS EVENLY @ 8.63' O.C.

COURT #10 | COURT #11 | COURT #12

INSTALL 6' HIGH FENCE PANELS TO PREVENT ACCESS TO RETAINING WALL

120'

12' | 36' STD. COURT WIDTH | 12' | 12' | 12'

COURTS 10-12 CORNERS: 45° CORNER (L=10')

BASE OF WALL
THE LOCATION OF THE BASE OF WALL 'F' VARIES BASED CHANGES IN THE BOTTOM OF WALL ELEVATION.

WALL 'F'
THE INSIDE TOP OF WALL 'F' IS 18" FROM THE CENTERLINE OF THE FENCE SURROUNDING COURTS 10 THROUGH 12. FILL AREA WITH 4" OF GRAVEL ON FILTER FABRIC. SEE NOTE.

EX. HOUSE TO REMAIN

METAL SHED

CHECK EAST-WEST STAKEOUT. MEASURE FROM WEST EDGE OF ROAD PAVEMENT, TO EAST EDGE OF COURT #7 @ CENTER OF COURT #7

50.98'+/-

145'
SPACE POSTS EVENLY @ 9'-8" O.C.

THE MIDDLE 5 FENCE SECTIONS SHALL BE 36" HIGH. TRANSITION SECTIONS ON BOTH SIDES TO 10' HIGH.

TENNIS NET POST

TENNIS NET CENTER STRAP ANCHOR

SPACE POSTS 10'-0" O.C.

COURT #5 | COURT #6 | COURT #7

150'

13' | 13' | 12'

CONNECT CORNERS OF COURTS #4 AND #5 WITH 10' FENCE

COURTS 5-7 CORNERS: 8.20'

142°

5' PEDESTRIAN GATE

6' EQUIPMENT ACCESS GATES CENTER OF CORNER

TENNIS COURT SECTION
COURT SURFACE & EDGING
CONC. VALLEY GUTTER AND DRAINAGE

43.84'+/-

REPLACE GATE (MATCH EXISTING WOOD GATE & POSTS REMOVED)

6' WOOD FENCE

EDGE OF PAVEMENT

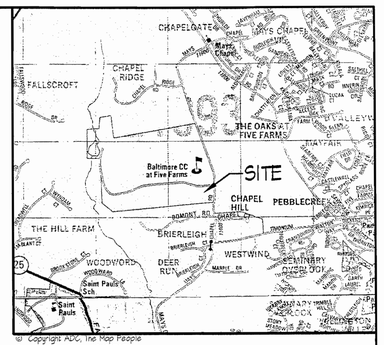
MAYS CHAPEL ROAD
(COUNTY CLAIMS 40' WIDE)

95'+/-

THE MIDDLE 5 FENCE SECTIONS SHALL BE 36" HIGH. TRANSITION SECTIONS ON BOTH SIDES TO 10' HIGH.

GRASSED

P.K. FENCE



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VICINITY MAP

1"=2000'

Layout Notes

The proposed building and tennis courts are aligned due north/ south and east/ west. Tennis court dimensions are from center line of fence to center line of fence. (See standard note below for other layout conventions).

DIMENSIONS. Unless otherwise noted on the drawing, all dimensions shown on the site drawings follow these conventions:

(a) dimensions to a building or retaining wall are to the face of the wall;
(b) dimensions to a curb are to the face (not the back) of the curb;
(c) dimensions to a fence are to the centerline of the fence;
(d) dimensions for sidewalks abutting a curb are from the face of curb to the back edge of the walk;
(e) dimensions for other sidewalks or open paving sections are measured to the edge of paving;
(f) dimensions to a manhole, inlet, cleanout, pipe bend, valve, fire hydrant or other utility appurtenance are to the center of the structure;
(g) dimensions for steps are to the outer edge of the staircase and the nose of the top or bottom step;
(h) layout of sediment control measures and plant material shall be scaled.

If a discrepancy is undetected prior to formation of the construction contract, numerically written dimensions shall take precedence over scaled dimensions for the purpose of the contract; however, the contractor shall notify the Architect of any such discrepancy immediately upon discovery and shall wait for clarification before proceeding with construction.

ANALYSIS AND REDESIGN CAUSED BY CONTRACTOR OR SUBCONTRACTOR.
In the event that the General Contractor or any subcontractor fails to perform in accordance with the contract documents, the General Contractor shall pay the Owner for all consulting fees for analysis, surveying, testing and redesign that, in the sole discretion of the Owner, are necessary and proper to evaluate and correct the failure to perform. Hourly rates and costs shall be based on the consultant's contract with the the Owner; payment is due within 30 days of General Contractor's receipt of invoice.

15. ABBREVIATIONS:

PROP	Proposed*
EX	Existing
BIT	Bituminous
CONC	Concrete
MH	Manhole
SD	Storm Drain
	Inlet
SAN	Sanitary Sewer
TC	Top of curb
TS	Top of step
PS	Parking space
PC	Point of Curvature
PT	Point of Tangency

DIP	Ductile iron pipe, class 54 unless otherwise noted
PVC	Polyvinyl chloride pipe, schedule 40 unless otherwise noted
HDPE	High Density Polyethylene Pipe
CMP	Corrugated Metal Pipe, aluminized unless otherwise noted
RCP	Reinforced concrete pipe, class III unless otherwise noted
C&G	Concrete curb & gutter, as detailed
INV	Invert elevation
FF	Finished Floor elevation
BC	Bottom of curb
BS	Bottom of step
HC	Handicapped parking space
TYP	Typical
L.O.D.	Limit of Disturbance
R.O.W.	Right-of-way
TPF	Tree Protection Fence

*Proposed means work included in the base contract unless accompanied by the phrases "N.I.C." or "By Others."

SEE SD-13

FOR ADDITIONAL LAYOUT INFORMATION INCLUDING WALLS 'B' THROUGH 'I', AND THE SERPENTINE WALK BETWEEN COURTS 9 AND 10.

PAVING LEGEND

- BITUMINOUS WALK
- CONCRETE WALK
- BITUMINOUS PAVEMENT/ OVERLAY*

*THE CONTRACTOR SHALL REMOVE EXISTING PAVEMENT AND INSTALL NEW BITUMINOUS PAVEMENT IN THE PARKING LOT TO PRODUCE A CLEAN, FINISHED LOOK AND TO ACHIEVE THE GRADES SHOWN ON SD-9. THE CONTRACTOR MAY MILL, SCARIFY, AND OVERLAY PORTIONS OF THE EXISTING PAVEMENT TO ACHIEVE THE REQUIRED FINISHED CONDITION.

Layout Plan

Baltimore Country Club Tennis Facility

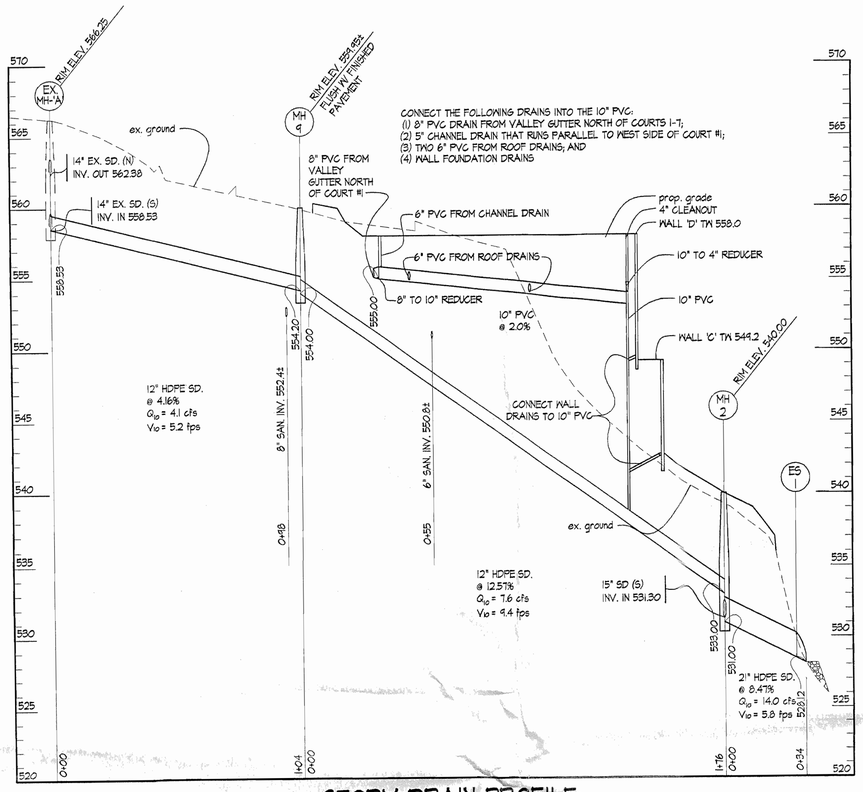
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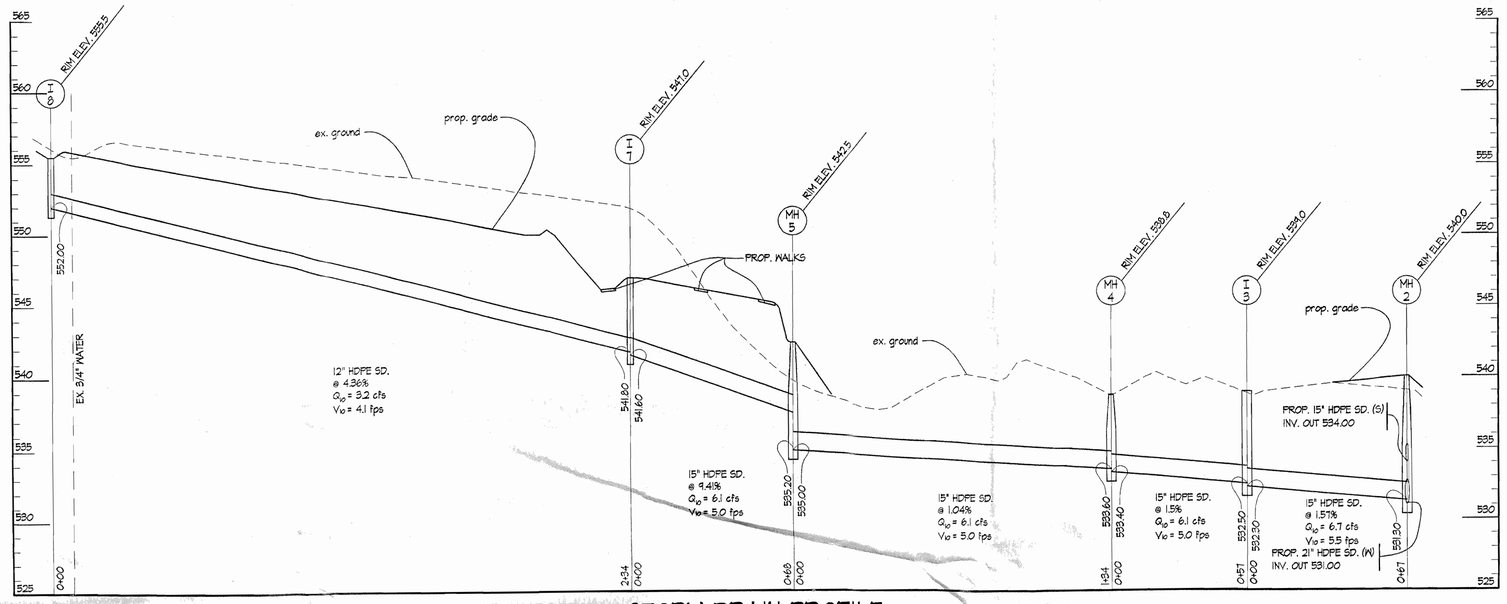
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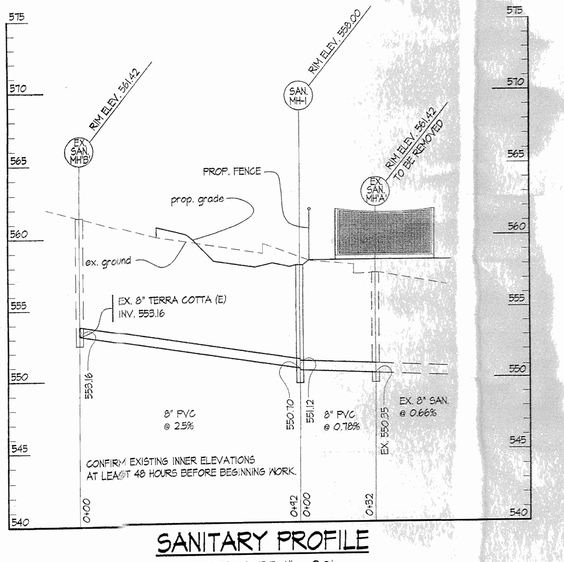
STORM DRAIN PROFILE

SCALE: HORZ. 1" = 30'
VERT. 1" = 5'



STORM DRAIN PROFILE

SCALE: HORZ. 1" = 30'
VERT. 1" = 5'



SANITARY PROFILE

SCALE: HORZ. 1" = 30'
VERT. 1" = 5'

Notes:

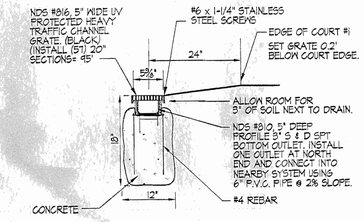
1. Grate must be installed prior to pouring concrete or backfill.
2. Grate shall be set at 0.2' below court #1 #1 edge, and flush with the walks at the gates of Court 8 and 10.
3. Grate shall be taped prior to pouring concrete to prevent debris from entering channel during installation.
4. Expansion joints shall be provided parallel, but not immediately adjacent to each side of the drain run, and control joints utilized at right angles to the channel for installation in concrete.
5. PVC primer and medium body fast set PVC solvent cement must be used to cement all components.
6. Grate must be installed on channel at all times except for cleaning.

Standard installation of N.D.S. Trench Drain

Excavate a wide and deep trench to accommodate the channel and bedding concrete. Erect a string line at each end of the drain run as a guide for laying the channels to the required level. Begin channel installation at the evacuation of discharge end of the run where the outlet or outlets are located.

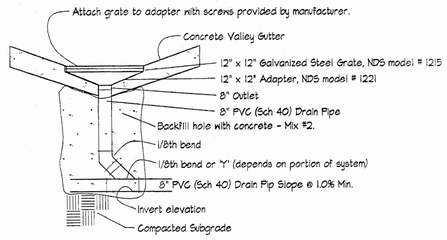
Install channel end-to-end PVC cementing sections together. Place side outlet into the channel run in the appropriate location and glue to the drainpipe or fittings. PVC cement end caps where appropriate.

Use 1/2" dir 5/8" rebar to anchor channel to the trench bed every 24" on each side of channel. Backfill with concrete to grade and finish concrete.



5" CHANNEL DRAIN, 24" WEST OF COURT #1

TRENCH DRAIN DETAIL - N.D.S. OR APPROVED EQUAL



NDS Inlets (Typical Section)

Note that view of bends and 8" pipe is rotated 90 degrees. It actually runs below centerline of valley gutter

12" x 12" INLETS IN VALLEY GUTTER.

* All drain pipe shall be 8" PVC (Sch 40) Drain Pipe @ 2% min. slope (unless otherwise noted). See Utility Plan and Profiles for inlet locations and invert elevations.

INLETS AND TRENCH DRAINS.
The Contractor shall provide all necessary bends, fittings, reducers, and all other materials required to install the small yard drains in accordance with manufacturer's recommendations and to connect them to the rest of the proposed storm drain system.

Utility Profiles

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

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GENERAL UTILITY NOTES

1. EXISTING INFORMATION AND CONDITIONS NOT GUARANTEED; VERIFY AND TEST PIT EXISTING UTILITIES. The correctness and completeness of the information showing existing conditions is not guaranteed. Before beginning construction, the Contractor shall perform the following tasks:

(a) Notify Miss Utility at 1-800-257-7777, and make sure they complete the marking of utilities within the limits of construction at least 48 hours prior to installing sediment control measures. Maintain all markings throughout construction. The Contractor shall also include in his bid price marking of on-site utilities that might not be marked by MISS Utility; the contractor shall either mark these on-site utilities himself or by subcontracting with a private on-site utility location company.

(b) Verify the general accuracy of the existing conditions shown on the site drawings by visual inspection of the surface of the site and all existing structures, paving and utility appurtenances visible thereon;

(c) With regard to the structures & appurtenances observed as required per item (b) above, determine the type, size, location and elevation of all those existing utilities (including but not limited to all storm drains, sanitary lines, water lines, gas lines, steam lines, electric lines, telephone lines, and communication ducts, and all mannoles, inlets, clean-outs, valves, handholes, etc. related thereto) within the limits of construction in order to: (i) avoid damaging or disrupting service, and (ii) to coordinate and facilitate construction of proposed utilities and other improvements. In addition to the Contractor's visual observation and the utility marking (as required above), the contractor shall schedule and complete Test Fitting of all existing utilities (for the purposes set forth above) and shall do so in a timely manner in order to allow time for analysis and redesign by Site Resources and/or other consultants, without delaying the project schedule.

(d) Immediately report to the Architect the results of steps (a), (b) and (c) which might indicate any discrepancy between actual conditions and those shown on the plan, and any potential conflicts between proposed improvements and existing condition.

Test pitting defined: For the purposes of this contract, excavation of utility trenches does not constitute test pitting. Test pitting is a separate operation completed at least seven days before utility installation is scheduled to begin. Test pitting means excavation to expose existing utilities in two situations: (i) where proposed improvements cross existing utilities (pipes, lines, structures, appurtenances) and; (ii) where proposed utilities are designed to connect to existing utilities. Test pitting includes recording the type, size, location and elevation of the exposed utilities, and faxing and mailing the record to the Architect and the Owner. The record may be a legible hand-written field sketch.

2. EXISTING AND PROPOSED GAS LINES, ELECTRIC LINES, TELEPHONE LINES, COMMUNICATION LINES AND OTHER UTILITIES. Existing and proposed gas lines, steam lines, electric lines, telephone lines, communication ducts and other such utilities are NOT part of the scope of work normally shown on these site plans. Site Resources has no responsibility for design, specification or installation of said utilities. To the extent that some or all of such utilities (whether existing or proposed) appear on the site drawings, the correctness and completeness of the information showing these utilities is not guaranteed. The Contractor shall coordinate with the appropriate utility companies regarding the alignment and elevation of the proposed gas, electric, steam, phone & cable lines and appurtenances, including the proposed locations of switchgear, transformers and phone pedestals which are subject to the approval of the Architect and Owner before installation of such utilities begins.

3. COORDINATION BETWEEN PROPOSED UTILITIES. The Contractor shall adjust the proposed alignment and elevation of proposed gas lines, electric lines, telephone lines, communication lines, and water lines as needed to construct the proposed storm drains and sanitary sewer with minimum clearances. Coordinate with the Mechanical/Electrical Drawings and Specifications and appropriate utility company.

4. RELOCATION OF EXISTING UTILITIES. In the event that the location or elevation of existing minor underground electric line, cable or phone lines conflicts with proposed storm drains, sanitary sewer lines or water lines, the Contractor shall, with the permission of the Owner and without an extra cost to the project, adjust these lines to permit construction of the proposed work. For the purposes of this paragraph, the definition of "minor underground electric line, cable or phone lines" means direct bury lines that can be shifted up, down, or laterally, without the need for splicing, but with additional excavation (for which there shall be no extra charge or cost).
In the event that any other utility (i.e. not "minor" as defined) needs to be relocated to accommodate proposed work, said relocation shall be an extra cost to the project, subject to the terms and conditions of the construction contract.

5. UTILITIES TO REMAIN OPERATIONAL; ADJUSTMENT FOR FINAL GRADE. All existing utilities shall remain in continuous operation and shall not be interrupted without prior written consent of the Owner, stating the dates and times when service may be interrupted. Existing utilities to be replaced or relocated shall remain in service until replaced or relocated utilities are operational.
All existing and proposed utility appurtenances shall be adjusted for final grade.

6. PROPOSED WIRING. Not withstanding the wiring shown on any electrical drawing, no wiring shall be installed within the drip line of trees to remain.

7. UTILITY TRENCHING, BACKFILL AND COMPACTION. All trenching for sanitary sewer, storm drains and water mains shall be done in accordance with the latest Standard Specifications and Details, published by Maryland State Highway Administration; however, backfill and compaction for sanitary sewer, storm drain and water mains shall be as stated in the contract specifications (FULL TRENCH COMPACTION IS REQUIRED).

8. UTILITY CAPPING AND PROTECTION. All building connections shall be capped at upstream end, 5 feet from proposed buildings, caissons or column footings or as noted, and shall be protected by providing three stakes (the height being a minimum of 18 inches above proposed grade) with high visibility flagging around the capped end of the utility.

9. PROPOSED STORM DRAINS. All storm drains 12 inches and larger shall be High Density Polyethylene Pipe (HDPE) unless otherwise indicated on the construction drawings or in contract specifications. All other storm drains shall be polyvinyl chloride (P.V.C.) schedule 40, unless otherwise indicated on the construction drawings or in contract specifications.

10. SANITARY SEWER shall be 6" polyvinyl chloride (P.V.C.) schedule 40 @ 2.0% min. slope.

11. CLEAN OUTS. All clean outs (SAN & S.D.) shall be 4" flush mounted bronze top with recessed keyway on 4" D.I.P. pipe set vertically (2' min. length).
There shall be a "boot-type" clean out for roof drains at the building.
In lawn areas, clean-outs shall be set flush with grade to prevent damage from mowers.

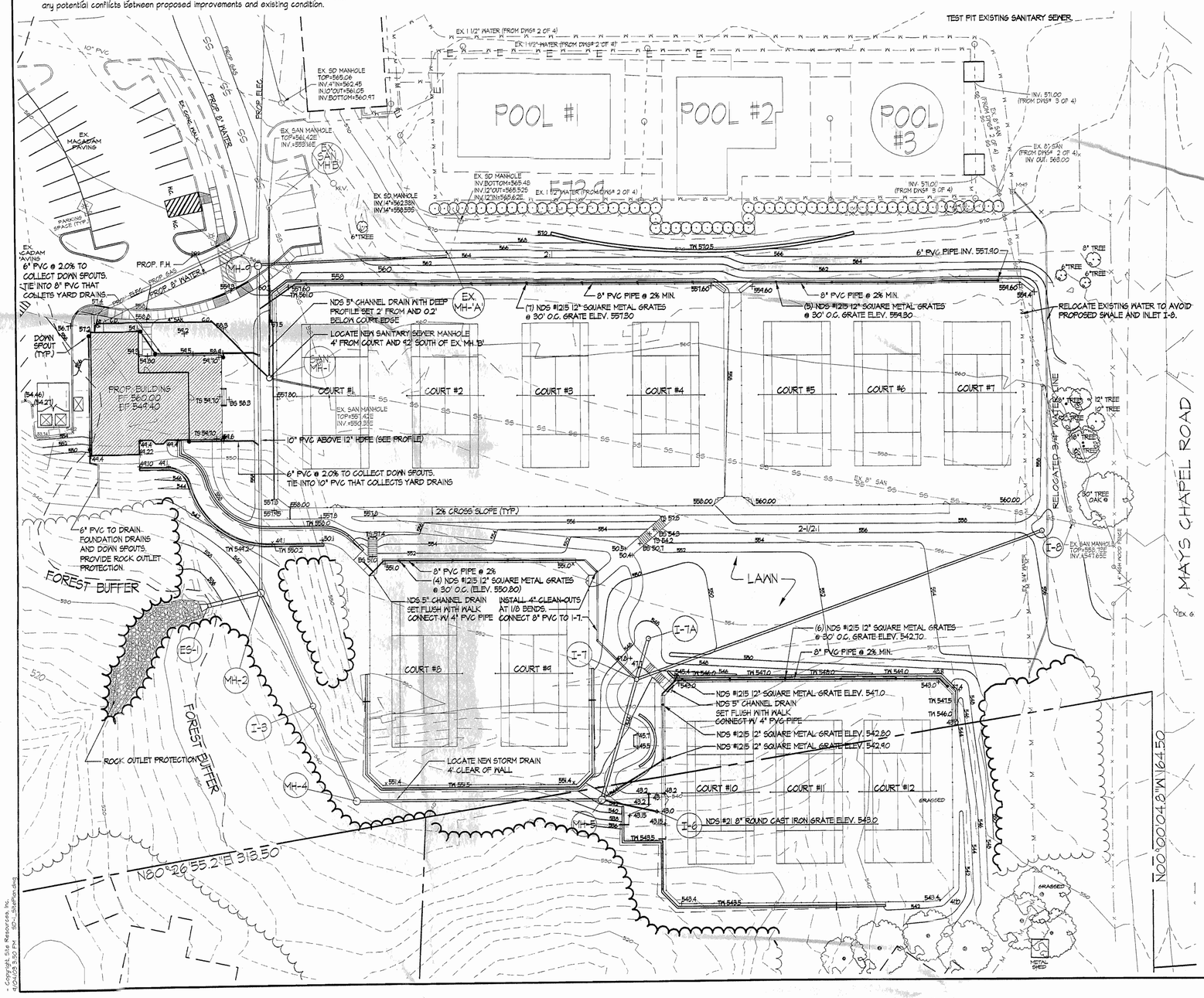
12. PROPOSED WATER LINES. Proposed water lines shall have a minimum of 4'-0" cover from finished grade, 1'-0" vertical clearance from storm drains and 1'-0" vertical clearance from sanitary sewers, unless otherwise noted on the plans. All water lines shall be ductile iron pipe, D.I.P., Class 54. All construction shall be in accordance with N.F.P.A. 24-1984, and latest amendments, and Baltimore County Standards and Specifications.

A. All horizontal bends, vertical bends, caps, tees and fire hydrants shall be butressed/anchored in accordance with the standard water details section of the specifications.
B. Ductile iron fittings class 250.
C. Ductile iron pipe and fittings shall be mechanical joint.
D. The intent of the Contract is to include all site utility work necessary and proper to construct new water service including: (i) an 8" water main; (ii) domestic and fire protection water supply for the new building; (iii) one new fire hydrant; (iv) sprinkling and irrigation as required by the tennis court system (Har-Tru, Hydrogrid or Aquagrid) selected by the owner for construction. The Contractor shall include in his base bid contract everything necessary to complete installation and to receive final inspection approval of the new water service.

13. COMPLIANCE WITH CODES; UTILITY CERTIFICATION; "AS BUILT" SURVEY.
The Contractor shall supply all materials, equipment and labor necessary to complete the proposed water lines, sanitary sewer system, and storm drain system as required by all applicable governmental codes and manufacturer's requirements. This note applies whether or not the plans show every fitting, bend, clean-out, valve, valve box, vault, buttress, or other appurtenance or measure which is required by governmental laws and regulations, or manufacturer's requirements. The Contractor shall employ a professional engineer, registered in the State of Maryland, to certify, on a form provided by the Owner, that all proposed sanitary sewers, water lines and storm drains shown hereon were installed in accordance with these plans, Baltimore City Standards, and all applicable building and plumbing codes. The Contractor shall provide the Owner with an "as-built" topographic survey showing the location and elevation of all site improvements made under this contract including but not not limited to utilities, grading and building.

14. APPEARANCE OF UTILITY STRUCTURES AN ESSENTIAL PART OF CONTRACT
The finish, color, location, orientation, and elevation of utility structures and appurtenances are an integral part of the design and the finished surface appearance is an essential part of the construction contract. Finish and color shall be as specified, or if not specified, as is customary by industry standards. Vertical elements, such as fire hydrants and light poles, shall be plum. Utility locations shall be as shown on the plan. The base of fire hydrants and light pole bases, as well as the top of manholes and inlets, shall be flush with finished grade. Square or rectangular inlets shall be set square with nearby straight lines, exactly as shown in plan view. The fact that a utility is "functional" does not satisfy these aesthetic requirements.

15. DIMENSIONS. Unless otherwise noted on the drawing, all dimensions shown on the site drawings follow these conventions:
(a) dimensions to a building or retaining wall are to the face of the wall;
(b) dimensions to a curb are to the face (not the back) of the curb;
(c) dimensions to sidewalks abutting a curb are from the face of curb to the back edge of the walk;
(d) dimensions for other sidewalks are measured to the edge of pavement;
(f) dimensions to a manhole, inlet, cleanout, pipe bend, valve, fire hydrant or other utility appurtenance are to the center of the structure;
If a discrepancy is undetected prior to formation of the construction contract, numerically written dimensions shall take precedence over scaled dimensions for the purpose of the contract; however, the contractor shall notify the Architect of any such discrepancy immediately upon discovery and shall wait for clarification before proceeding with construction.

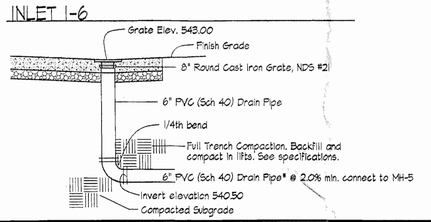


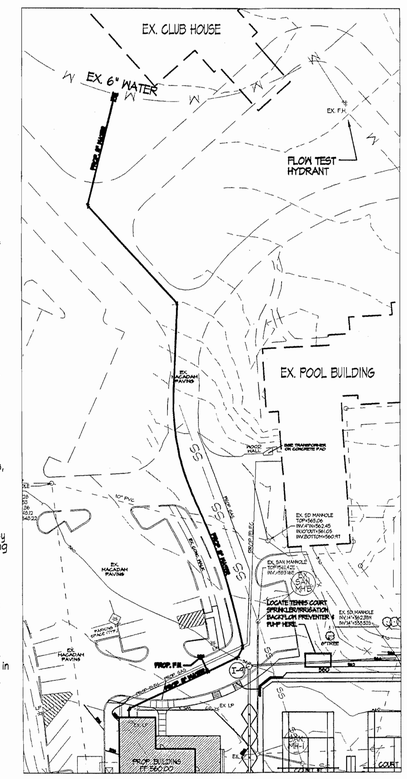
YARD INLETS - N.D.S. OR APPROVED EQUAL

* All drain pipe shall be PVC (Sch 40) Drain Pipe @ 2% min. slope (unless otherwise noted). The Contractor shall provide all necessary bends, fittings, reducers, and all other materials required to install the small yard drains in accordance with manufacturer's recommendations and to connect them to the rest of the proposed storm drain system.

LOCATION	QUANTITY	PRODUCT
VALLEY GUTTER NORTH OF COURTS 1-4	5	12" X 12" GALV. STEEL GRATE WITH OPENINGS OF 122 SQUARES INCHES. NDS #1215 ON NDS #1221 ADAPTER WITH 8" OUTLET
VALLEY GUTTER NORTH OF COURTS 5-7	5	
VALLEY GUTTER NORTH OF COURTS 8-9	4	
VALLEY GUTTER WEST OF COURTS 10	2	
VALLEY GUTTER NORTH OF COURTS 10-12	6	
NORTHEAST CORNER OF WALL 'G'	1	
LAWN BETWEEN BUILDING & COURT 1	46 L.F.	5" CHANNEL DRAIN/ DEEP PROFILE NDS # 810
AT ENTRANCE TO COURTS 8	6 L.F.	5" CHANNEL DRAIN/ DEEP PROFILE NDS # 810
AT ENTRANCE TO COURTS 10	4 L.F.	5" CHANNEL DRAIN/ DEEP PROFILE NDS # 810
INLET I-6	1	8" ROUND GRATE CAST IRON NDS #21

INLET I-6





Water System Design/Build

SCALE: 1" = 50'

THE CONTRACTOR SHALL INCLUDE, IN ITS BASE BID, DESIGN AND CONSTRUCTION OF THE NEW WATER SYSTEM INCLUDING BUT NOT LIMITED TO:

(1) LOCATING AND TESTING THE PRESSURE AND FLOW RATES OF THE EXISTING WATER MAIN IN THE AREA SHOWN ON THE ABOVE PLAN;

(2) COMPUTING THE PROPER SIZE OF THE NEW WATER MAIN TO ADEQUATELY SERVICE THE NEW BUILDING FOR DOMESTIC AND FIRE PROTECTION SERVICES AND TO SPRINKLER/ DRIP IRRIGATE HAR-TRU, HYDRO GRID AND AQUA GRID TENNIS COURTS;

(3) UTILITY LOCATION AND TEST PIT AS NECESSARY TO DESIGN THE LOCATION AND ELEVATION OF THE NEW WATER RELATED IMPROVEMENTS;

(4) SELECTING, SUPPLYING AND INSTALLING ALL COMPONENTS OF THE WATER SYSTEM NECESSARY FOR THE BUILDING DOMESTIC AND FIRE PROTECTION SYSTEMS AND SPRINKLING AND/OR DRIP IRRIGATING THE TENNIS COURTS INCLUDING BUT NOT LIMITED TO BACKFLOW PREVENTERS (AND COVERS), PUMPS, TANKS, VALVES, PIPING, FIXTURES, APPURTENANCES, ETC.; AND

(5) ALL OTHER WORK NECESSARY AND PROPER TO COMPLETE THE WATER SYSTEMS FOR THE BUILDING AND COURTS INCLUDING BUT NOT LIMITED TO PERMITTING, SEDIMENT & EROSION CONTROL, PERMITTING, CURB & GUTTER AND PAVEMENT REMOVAL AND REPLACEMENT, FINE GRADING AND SEEDING.

ALTERNATE #2

include in the deduction price for alternate (the deletion of the building) the drainage system that collects down spouts and foundation drains and the sanitary sewer house connection.

Sanitary Sewer, Storm Drains, and Water

Baltimore Country Club Tennis Facility

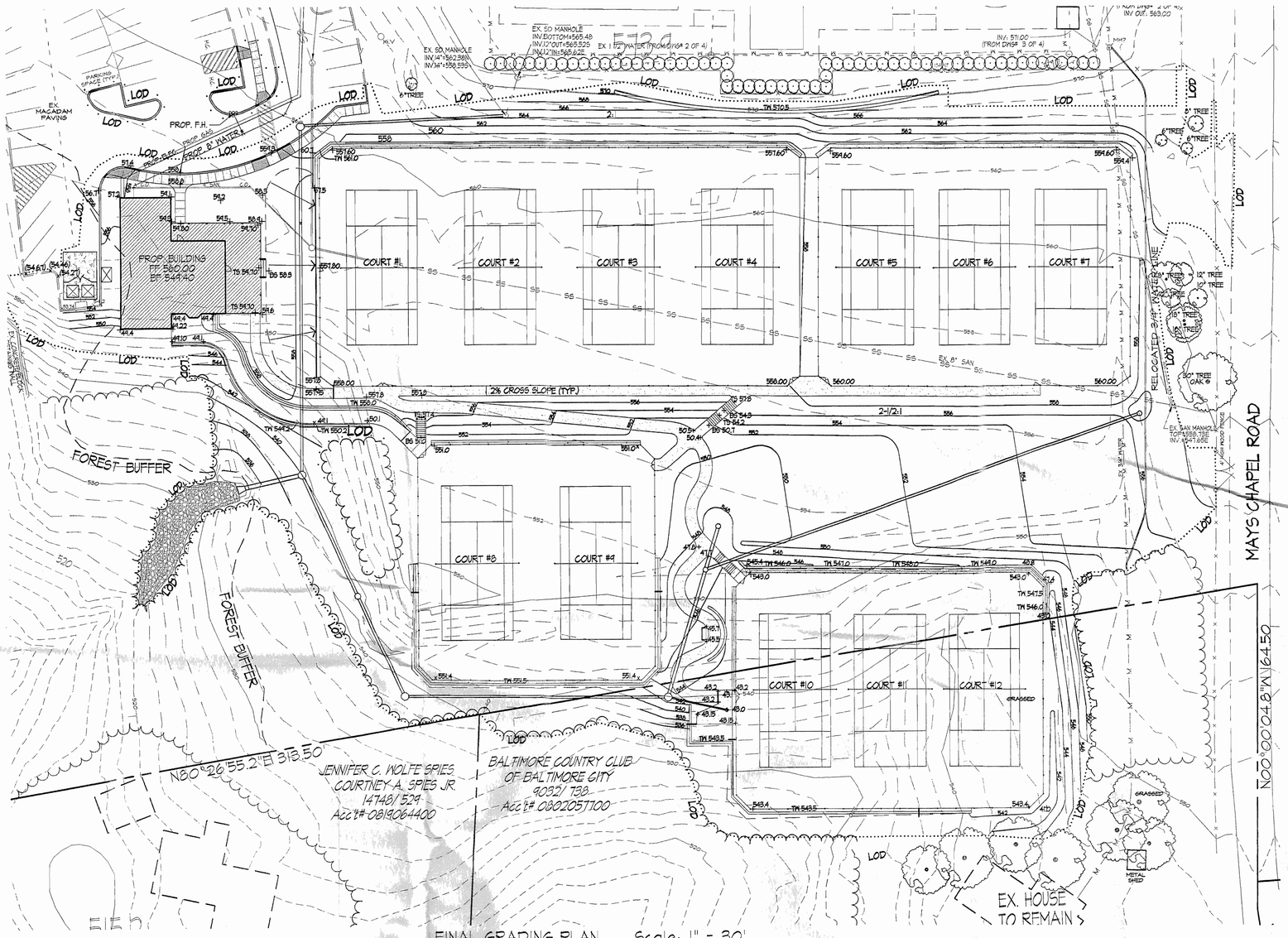
BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	JGT	SCALE:	1" = 30'
CHECKED BY:	JLS	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-11 OF SD-18

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4/04/03 3:50 PM SD-1_SitePlan.dwg



FINAL GRADING PLAN Scale: 1" = 30'

LEGEND

- PROPERTY LINE
- EXISTING CONTOURS (560 / 558)
- PROPOSED CONTOURS (560 / 558)
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB
- PROPOSED CURB
- EX. S.D. — EXISTING STORMDRAINS
- PROP. 24" S.D. — PROPOSED STORMDRAINS
- SS — EXISTING SANITARY SEWER
- PROP. SAN. — PROPOSED SANITARY SEWER
- W EX. H. — EXISTING WATER & FIRE HYDRANT
- PROP. W. — PROPOSED WATER
- EXISTING BUILDINGS
- LOD — LIMIT OF DISTURBANCE

CONTRACTOR SHALL BALANCE EARTHWORK AS PART OF BASE CONTRACT

In accordance with the Earthwork Specifications, the Contractor shall balance the earthwork. Additional earth can be obtained by lowering courts 5-7. Excess material can be used to raise courts 10-12. See Earthwork Specifications.

WALL ELEVATIONS.

Top of wall elevations shall be level unless otherwise noted. The bottom of all walls shall be existing grade unless shown otherwise with proposed contours or spot elevations.

OWNER'S/DEVELOPER'S CERTIFICATION - GRADING

I/We certify that all grading on this site will be done in accordance with the current grading requirements as set forth by the Baltimore County Department of Environmental Protection and Resource Management and with the requirements specified in Title 14, Article VI of the Baltimore County Code.

Signature of Owner/Developer Title Date

Print Name

OWNER'S/DEVELOPER'S CERTIFICATION - AIR QUALITY

I acknowledge that I am responsible under the Code of Maryland Regulations (26.11.06.03) to prevent particulate matter from becoming airborne due to grading, land clearing, excavation, construction or other related activities. I have received a copy of "Guidelines to the Air Pollution Regulations for Controlling Excessive AEP (dust) on Activity Sites" which includes a copy of COMAR 26.11.06.03. I will contact the Bureau of Air Quality Field Services (887-3775) at least three days prior to beginning work.

Signature of Owner/Developer Title Date

Print Name

LIMIT OF DISTURBANCE = 165,673 FT² = 3.8 AC.

GRADING. It is the intent of the grading design to achieve positive drainage and aesthetically pleasing vertical curves and lines. Transitions between existing and proposed pavement shall be smooth and joints flush. Unless otherwise expressly noted on the plan (by arrow with the percent slope labeled), all proposed bituminous paving shall have a slope of at least 2 percent and all concrete shall have a minimum slope of 1 percent in the direction indicated by proposed contours. Unless expressly noted otherwise on the plan, unpaved areas shall have a minimum slope of 2 percent and a maximum slope of 3:1.* Final grading shall achieve positive surface drainage away from buildings and toward drainage facilities (swales, gutters, inlets, etc.). Changes in vertical alignment at roads and walks shall be a straight line slope or parabolic vertical curve that transitions smoothly into a tangent. See specifications for tolerances.

* Unless approved by Owner's representative in advance of final grading.

Round top and bottom of slopes.

Correct Method Incorrect Method

The longitudinal slope along all paths shall not exceed 5% and the cross slope of all paths shall be 2.0%. The longitudinal slopes and cross slopes of the 15' x 30' paved areas (to accomodate bleachers) shall not exceed 2.0% All unpaved surfaces adjacent to the lower side of a paved surface shall be 3/4" lower than the paved surface and the high side finished grade shall be slightly higher than the pavement to permit drainage across the pavement.

Paved Surface Flow
(Cross slope @ 2%)
3/4"
High Side Finished Grade
Low Side Finished Grade

This development was given as A-7 exemption by the D.R.C. on July 6, 1992.

BENCHMARKS: NAD83/91 & NAVD88 IN USE.

BCO # 418 N 634,023.18 E 1,405,068.54 ELEV. 324.45
5/8" REBAR GREEN SPRING VALLEY RD. @ FALLS RD.

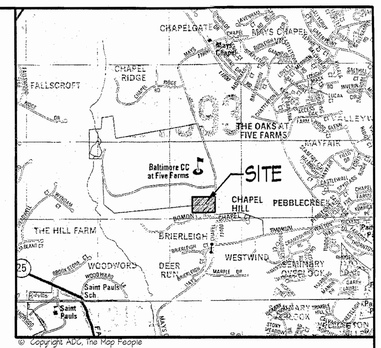
NGS PARKS N 652,786.42 E 1,404,301.21 ELEV. 656.44
STANDARD CONCRETE MONUMENT NDS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.

BALTIMORE COUNTY STANDARD NOTES

1. The proposed grading shown on this plan meets the requirements set forth by the Baltimore County Department of Environmental Protection and Resource Management and complies with Title 14, Article VI of the Baltimore County Code. However, due to building types and layout, some field adjustments may be required. All changes must comply with the above mentioned requirements.
2. All swales have been designed to convey runoff according to Baltimore County Department of Public Works design standards
3. There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer Easement or other forest retention areas, except as permitted by the Baltimore County Department of Environmental Protection and Resource Management.

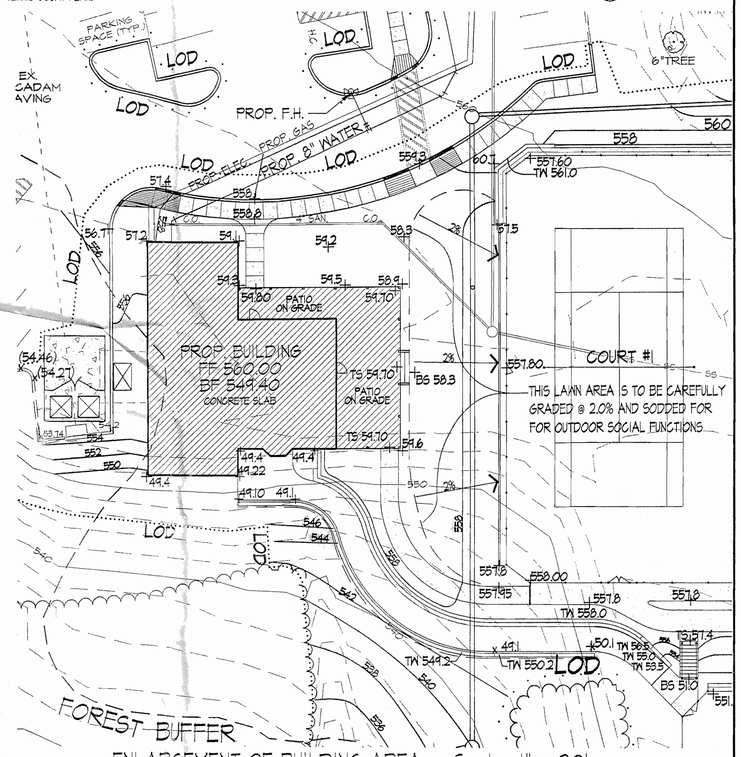
NOTE: A VARIANCE TO GRADE AND CONSTRUCT IN THE FOREST BUFFER WAS GRANTED ON .

NOTE: SWM IS PROVIDED IN EXISTING UNDERGROUND FACILITY APPROVED 9/17/86 FOR BALTIMORE COUNTRY CLUB FIVE FARMS PHASE II CLUBHOUSE IMPROVEMENTS, PARKING AND TENNIS COURT PLAN.



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Permitted Use Number 20010107

VICINITY MAP 1"=2000'



ENLARGEMENT OF BUILDING AREA Scale: 1" = 20'

ENLARGEMENT OF WALK AREA
Scale: 1" = 20'

Final Grading Plan

Baltimore Country Club
Tennis Facility

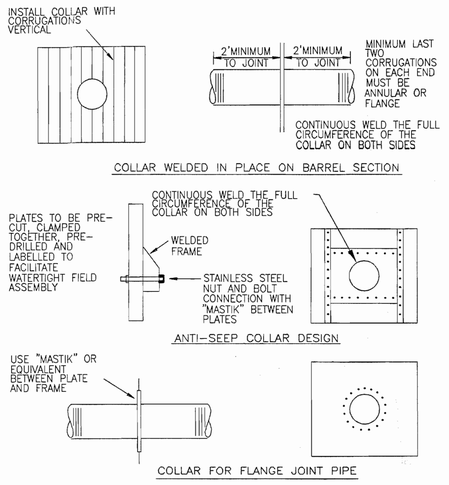
BALTIMORE COUNTY, MD

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DESIGNED BY:	JGT	SCALE:	AS SHOWN
CHECKED BY:	JLS	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-10 OF SD-18

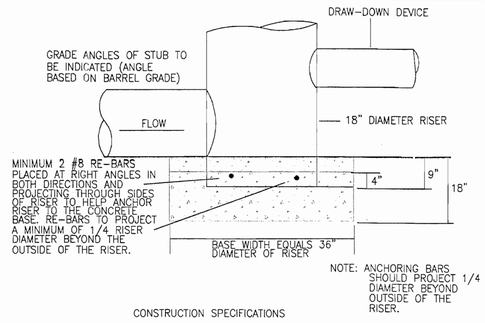
- Copyright Site Resources, Inc.
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TYPICAL ANTI-SEEP COLLARS

C1103.4.DWG

NOT TO SCALE



CONSTRUCTION SPECIFICATIONS

THE RISER SHALL HAVE A BASE ATTACHED WITH A WATERTIGHT CONNECTION AND SHALL HAVE SUFFICIENT WEIGHT TO PREVENT FLOTATION OF THE RISER. TWO APPROVED BASES FOR RISERS 10" OR LESS IN HEIGHT ARE:

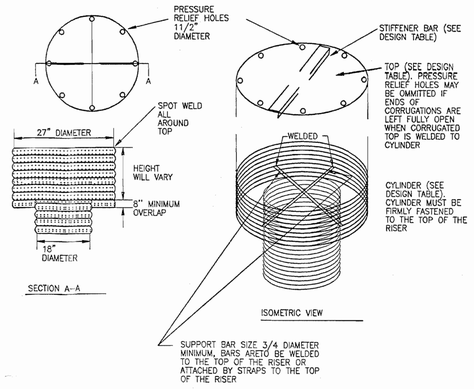
1. A CONCRETE BASE 18" THICK WITH THE RISER EMBEDDED 9" IN THE BASE.
2. A 1/4" MINIMUM THICKNESS STEEL PLATE ATTACHED TO THE RISER BY A CONTINUOUS WELD AROUND THE CIRCUMFERENCE OF THE RISER TO FORM A WATERTIGHT CONNECTION. THE PLATE SHALL HAVE 2' OF STONE, GRAVEL, OR COMPACTED EARTH PLACED ON IT TO PREVENT FLOTATION. IN EITHER CASE, EACH SIDE OF THE SQUARE BASE SHALL BE TWICE THE RISER DIAMETER.

NOTE: FOR RISERS GREATER THAN TEN FEET HIGH COMPUTATIONS SHALL BE MADE TO DESIGN A BASE WHICH WILL PREVENT FLOATATION. THE MINIMUM FACTOR OF SAFETY SHALL BE 1.20 (DOWNWARD FORCES = 1.20 X UPWARD FORCES).

RISER BASE DETAIL

C1020

NOT TO SCALE



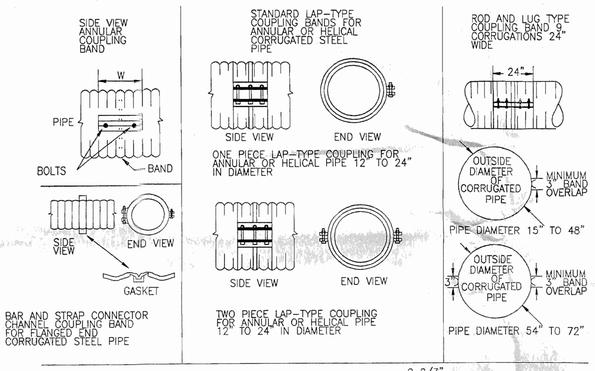
CONCENTRIC TRASH RACK AND ANTI-VORTEX DEVICE

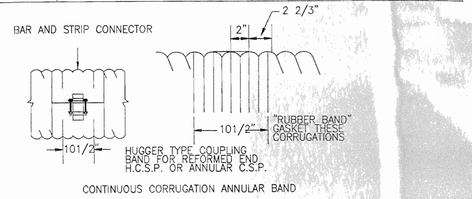
C1025

NOT TO SCALE

RISER DIAM., IN.	TRASH RACK CYLINDER DIAM., IN.	THICK., GAGE	H, IN.	MINIMUM SIZE SUPPORT BAR	MINIMUM TOP THICKNESS	STIFFENER
12	18	16	6	#6 REBAR	16 GA.	--
15	21	16	7	"	"	--
18	27	16	8	"	"	--
21	30	16	11	"	"	--
24	36	16	13	"	14 GA.	--
27	42	16	15	"	14 GA.	--
36	54	14	17	#8 REBAR	12 GA.	--
42	60	14	19	"	"	--
48	72	12	21	1-1/4" PIPE OR 1-1/4 X 1-1/4 X1/4 ANGLE	10 GA.	--
54	78	12	25	"	"	--
60	90	12	29	1-1/2" PIPE OR 1-1/2 X 1-1/2 X1/4 ANGLE	8 GA.	--
66	96	10	33	2" PIPE OR 2X2X3/16 ANGLE	8 GA. W/STIFFENER	2X2X1/4 ANGLE
72	102	10	36	"	"	2-1/2X2-1/2 X1/4 ANGLE
78	114	10	39	2-1/2" PIPE OR 2X2X1/4 ANGLE	" "	
84	120	10	42	2-1/2" PIPE OR 2-1/2X2-1/2X1/4 ANGLE	"	2-1/2 X2-1/2 X5/16 ANGLE

NOTE: THE ABOVE TRASH RACK AND ANTI-VORTEX DEVICE INFORMATION IS ONLY FOR CORRUGATED METAL PIPE. CONCRETE RISERS MUST MEET THE REQUIREMENTS OF MD 378.





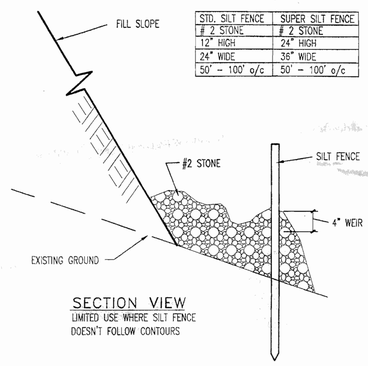
NOTE: UNDER NO CIRCUMSTANCES WILL THE DIMPLE (UNIVERSAL) CONNECTOR BAND BE ACCEPTABLE FOR USE IN ANY SEDIMENT CONTROL OR STORMWATER MANAGEMENT STRUCTURE.

TYPES OF COUPLERS FOR CORRUGATED STEEL PIPE

(ALL CONNECTOR BANDS REQUIRE NEOPRENE GASKETS)

C1007

NOT TO SCALE



STD. SILT FENCE	SUPER SILT FENCE
# 2 STONE	# 2 STONE
12" HIGH	24" HIGH
24" WIDE	36" WIDE
50' - 100' o/c	50' - 100' o/c

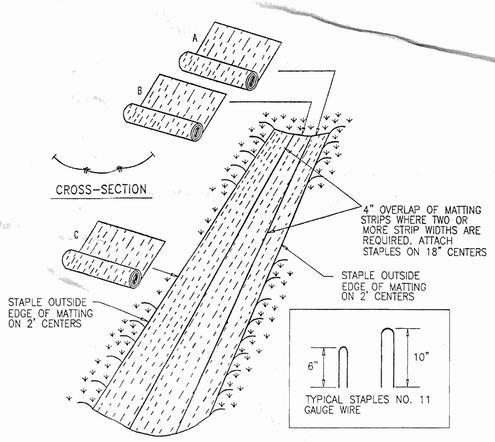
SECTION VIEW

LIMITED USE WHERE SILT FENCE DOESN'T FOLLOW CONTOURS

#2 STONE CHECK DAM

CHK_DAM2.DWG

NOT TO SCALE



CONSTRUCTION SPECIFICATIONS

1. KEY-IN THE MATTING BY PLACING THE TOP ENDS OF THE MATTING IN A NARROW TRENCH, 6" IN DEPTH. BACKFILL THE TRENCH AND TAMP FIRMLY TO CONFORM TO THE CHANNEL CROSS-SECTION. SECURE WITH A ROW OF STAPLES ABOUT 4" DOWN SLOPE FROM THE TRENCH. SPACING BETWEEN STAPLES IS 6".
2. STAPLE THE 4" OVERLAP IN THE CHANNEL CENTER USING AN 18" SPACING BETWEEN STAPLES.
3. BEFORE STAPLING THE OUTER EDGES OF THE MATTING, MAKE SURE THE MATTING IS SMOOTH AND IN FIRM CONTACT WITH THE SOIL.
4. STAPLES SHALL BE PLACED 2' APART WITH 4 ROWS FOR EACH STRIP, 2 OUTER ROWS, AND 2 ALTERNATING ROWS DOWN THE CENTER.
5. WHERE ONE ROLL OF MATTING ENDS AND ANOTHER BEGINS, THE END OF THE TOP STRIP SHALL OVERLAP THE UPPER END OF THE LOWER STRIP BY 4", SHIPLAP FASHION. REINFORCE THE OVERLAP WITH A DOUBLE ROW OF STAPLES SPACED 6" APART IN A STAGGERED PATTERN ON EITHER SIDE.
6. THE DISCHARGE END OF THE MATTING LINER SHOULD BE SIMILARLY SECURED WITH 2 DOUBLE ROWS OF STAPLES.

NOTE: IF FLOW WILL ENTER FROM THE EDGE OF THE MATTING THEN THE AREA EFFECTED BY THE FLOW MUST BE KEYED-IN.

EROSION CONTROL MATTING

C1022

NOT TO SCALE

SEC 7 OF 7

Sediment & Erosion Control Notes & Details

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

REVISIONS

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DRAWN BY: MAS	CONTRACT NO.:
DESIGNED BY: JGT	SCALE: as shown
CHECKED BY: JLS	SRI PROJECT NO: 02144
DATE: 12/24/03	SHEET SD-9 OF SD-18

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• 02144\SD-9.DWG - SD-9_Details.dwg

Section I : Vegetative Stabilization Methods and Materials

A. Site Preparation

I. Install erosion and sediment control structures (either temporary or permanent) such as diversions, grade stabilization structures, berms, waterways, or sediment control basins.

II. Perform all grading operations at right angles to the slope. Final grading and shaping is not usually necessary for temporary seeding.

III. Schedule required soil tests to determine soil amendment composition and application rates for sites having disturbed area over 5 acres.

B. Soil Amendments (Fertilizer and Lime Specifications)

I. Soil tests must be performed to determine the exact rates and application rates for both lime and fertilizer on sites having disturbed areas over 5 acres. Soil analysis may be performed by the University of Maryland or a recognized commercial laboratory. Soil samples taken for engineering purposes may also be used for chemical analyses.

II. Fertilizers shall be uniform in composition, free flowing and suitable for accurate application by approved equipment. Manure may be substituted for fertilizer with prior approval from the appropriate approval authority. Fertilizers shall all be delivered to the site fully labeled according to the applicable state fertilizer laws and shall bear the name, trade name or trademark and warrantee of the producer.

III. Lime materials shall be ground limestone (hydrated or burnt lime may be substituted) which contains at least 50 percent total oxides (calcium oxide plus magnesium oxide). Limestone shall be ground to such fineness that at least 50% will pass through a #100 mesh sieve and 90 % - 100% percent will pass through a #20 mesh sieve.

IV. Incorporate lime and fertilizer into the top 3" - 5" of soil by disking or other suitable means.

C. Seedbed Preparation

I. Temporary Seeding

a. Seedbed preparation shall consist of loosening soil to a depth of 3" to 5" by means of suitable agricultural or construction equipment, such as disc harrows or chisel plows or rippers mounted on construction equipment. After the soil is loosened, it should not be rolled or dragged smooth but left in the roughened condition. Sloped areas (greater the 3:1) should be tracked leaving the surface in an irregular condition with ridges running parallel to the contour of the slope.

b. Apply fertilizer and lime as prescribed on the plans.

c. Incorporate lime and fertilizer into the top 3 " - 5" of soil by disking or other suitable means.

II. Permanent Seeding

a. Minimum soil conditions required for permanent vegetative establishment:

1. Soil pH shall be between 6.0 and 7.0.
2. Soluble salts shall be less than 500 parts per million (PPM).
3. The soil shall contain less than 40 percent clay but enough fine grained material (>30 percent silt plus clay) to provide the capacity to hold a moderate amount of moisture. An exception is if lovegrass or sericea lespedeza is to be planted, then a sandy soil (<30 percent silt plus clay) would be acceptable.
4. Soil shall contain 1.5 percent minimum organic matter by weight.
5. Soil must contain sufficient pore space to permit adequate root penetration.
6. If these conditions cannot be met by soils on site, suitable topsoil shall be imported from an off-site location 4 added, in accordance w/ section 21 standard & specs for topsoil.

b. Areas previously graded in conformance with the drawings shall be maintained in a true and even grade, then scarified or otherwise loosened to a depth of 3" - 5" to permit bonding of the topsoil to the surface area and to create horizontal erosion check slots to prevent topsoil from sliding down a slope.

c. Apply soil amendments as per soil test or as included in the seeding mix tables.

d. Mix soil amendments into the top 3 " - 5" of topsoil by disking or other suitable means. Lawn areas should be raked to smooth the surface, remove large objects like stones and branches, and ready the area for seed application. Where site conditions will not permit normal seedbed preparation, loosen surface soil by dragging with a heavy chain or other equipment to roughen the surface. Steep slopes (steeper than 3:1) should be tracked by a dozer leaving the soil in an irregular condition with ridges running parallel to the contour of the slope. The top 1" - 3" of soil should be loose and friable. Seedbed loosening may not be necessary on newly disturbed areas.

D. Seed Specifications

I. All seed must meet the requirements of the Maryland State Seed Law. All seed shall be subject to re-testing by a recognized seed laboratory. All seed used shall have been tested within the 6 months immediately preceding the date of sowing such material on this job.

Note: Seed tags shall be made available to the inspector to verify type and rate of seed used.

II. Inoculant : The inoculant for treating legume seed in the seed mixtures shall be a pure culture of nitrogen-fixing bacteria prepared specifically for the species. Inoculants shall not be used later than the date indicated on the container. Add fresh inoculant as directed on package. Use four times the recommended rate when hydroseeding. Note: It is very important to keep inoculant as cool as possible until used. Temperatures above 75-80 degrees F. can weaken bacteria and make the inoculant less effective.

E. Methods of Seeding

I. Hydroseeding. Apply seed uniformly with hydroseeder (slurry includes seed and fertilizer), broadcast or drop seeder, or a cultipacker seeder.

a. If fertilizer is being applied at the time of seeding, the application rates will not exceed the following: N (Nitrogen)- max. of 100 lbs./acre total of soluble nitrogen;
P2O5 (phosphorous). 200 lbs./ac.
K20 (potassium). 200 lbs./ac.

b. Lime : use only ground agricultural limestone, (up to 3 tons per acre may be applied by hydroseeding). Normally, not more than 2 tons are applied by hydroseeding at any one time. Do not use burnt or hydrated lime when hydroseeding.

c. Seed and fertilizer shall be mixed on site and seeding shall be done immediately and without interruption.

II. Dry Seeding: This includes use of conventional drop or broadcast spreaders.

a. Seed spread dry shall be incorporated into the subsoil at the rates prescribed on the Temporary or Permanent Seeding Tables. The seeded area shall then be rolled with a weighted roller to provide good seed to soil contact.

b. Where practical, seed should be applied in two directions perpendicular to each other. Apply half the seeding rate in each direction.

III. Drill or Cultipacker Seeding: Mechanized seeders that apply and cover seed with soil.

a. Cultipacking seeders are required to bury the seed in such a fashion as to provide at least 1/4" of soil covering. Seedbed must be firm after planting.

b. Where practical, seed should be applied in two directions perpendicular to each other. Apply half the seeding rate in each direction.

F. Mulch Specifications (in order of preference)

I. Straw shall consist of thoroughly threshed wheat, rye or oat straw, reasonably bright in color, and shall not be musty, moldy, caked, decayed, or excessively dusty and shall be free of noxious weed seeds as specified in the Maryland Seed Law.

II. Wood Cellulose Fiber Mulch (WCFM)

a. WCFM shall consist of specially prepared wood cellulose processed into a uniform fibrous physical state.

b. WCFM shall be dyed green or contain a green dye in the package that will provide an appropriate color to facilitate visual inspection of the uniformly spread slurry.

c. WCFM, including dye, shall contain no germination or growth inhibiting factors.

d. WCFM materials shall be manufactured and processed in such a manner that the wood cellulose fiber mulch will remain in uniform suspension in water under agitation and will blend with seed, fertilizer and other additives to form a homogeneous slurry. The mulch material shall form a blotter-like ground cover, on application, having moisture absorption and percolation properties and shall cover and hold grass seed in contact with the soil without inhibiting the growth of the grass seedlings.

e. WCFM material shall contain no elements or compounds at concentration levels that will be phyto-toxic.

f. WCFM mast conform to the following physical requirements: fiber length to approximately 10 mm., diameter approximately 1 mm., pH range of 4.0 to 8.5, ash content of 1.6 percent maximum and water holding capacity of 90 percent minimum.

Note. Only sterile straw mulch should be used in areas where one species of grass is desired.

G. Mulching Seeded Areas : Mulch shall be applied to all seeded areas immediately after seeding.

I. If grading is completed outside of the seeding season, mulch alone shall be applied as prescribed in this section and maintained until the seeding season returns and seeding can be performed in accordance with these specifications.

II. When straw mulch is used, it shall be spread over all seeded areas at the rate of 2 tons/acre. Mulch shall be applied to a uniform loose depth of between 1" and 2". Mulch applied shall achieve a uniform distribution and depth so that the soil surface is not exposed. If a mulch anchoring tool is to be used, the rate should be increased to 2.5 tons/acre.

III. Wood cellulose fiber used as a mulch shall be applied at a net dry weight of 1500 lbs. per acre. The wood cellulose fiber shall be mixed with water, and the mixture shall contain a maximum of 50 lbs. of wood cellulose fiber per 100 gallons of water.

H. Securing Straw Mulch (Mulch Anchoring).

Mulch anchoring shall be performed immediately following mulch application to minimize loss by wind or water. This may be done by one of the following methods (listed by preference), depending upon size of area and erosion hazard:

I. A mulch anchoring tool is a tractor drawn implement designed to punch and anchor mulch into the soil surface a minimum of two (2) inches. This practice is most effective on large areas, but is limited to flatter slopes where equipment can operate safely. If used on sloping land, this practice should be used on the contour if possible.

II. Wood cellulose fiber may be used for anchoring straw. The fiber binder shall be applied at a net dry weight of 750 lbs/acre. The wood cellulose fiber shall be mixed with water and the mixture shall contain a maximum of 50 lbs. of wood cellulose fiber per 100 gallons of water.

III. Application of liquid binders should be heavier at the edges where wind catches mulch, such as in valleys and on crests of banks. The remainder of area should appear uniform after binder application. Synthetic binders such as Acrylic DLR (Agro-Tack), DCA-70, Petronet, Terra Tax II, Terra Tack AR or other approved equal may be used at rates recommended by the manufacturer to anchor mulch.

IV. Lightweight plastic netting may be stapled over the mulch according to manufacturer's recommendations. Netting is usually available in rolls 4 to 15 feet wide and 300 to 3,000 feet long.

Section II - Temporary Seeding

Vegetation - annual grass or grain used to provide cover on disturbed areas for up to 12 months. For longer duration of vegetative cover, Permanent Seeding is required.

Temporary Seeding Summary

Seed Mixture For Hardiness Zone 7a					Fertilizer Rate (10-10-10)	Lime Rate
No.	Species	Application Rate (lb/ac)	Seeding Dates	Seeding Depths		
1	RYE	140	2/1 - 4/30 8/15 - 11/30	1"- 2"		
2	BARLEY or Rye plus FOXTAIL MILLET (MSHA Temporary Seeding Mix)	150	2/1 - 10/15 2/1 - 11/30	1"	600 lb/ac (15 lb/1000 sf)	2 tons/ac (100 lb/1000 sf)
3	ANNUAL RYEGRASS	50	2/1 - 4/30 8/15 - 11/01	1/4" - 1/2"		

Section III - Permanent Seeding

Seeding grass and legumes to establish ground cover for a minimum period of one year on disturbed areas generally receiving low maintenance.

Permanent Seeding Summary

Seed Mixture For Hardiness Zone 7a					Fertilizer Rate (10-20-20)			Lime Rate
No.	Species	Application Rate (lb/ac)	Seeding Dates	Seeding Depths	N	P2O5	K20	
3	GRANDI TALL FESCUE (SOD)	130	3/1-5/15 8/15-11/15	1"-2"	90 lb/ac (2.0 lb/1000sf)	175 lb/ac (4 lb/1000 sf)	175 lb/ac (4 lb/1000 sf)	2 tons/ac (100lb/1000 sf)
	SR-6500 TALL FESCUE (SOD)	130						
	SR-8200 TALL FESCUE (SOD)	130						
	SR 2100 KENTUCKY BLUEGRASS (SOD)	45						

For the time period of 5/16-8/14 it will be necessary to add one of the following nurse crops to the mixture: Weeping Lovegrass (2 Lbs/Ac) or Millet @ 10 lbs/ac.

Section IV - Sod: To provide quick cover on disturbed areas (2:1 grade or flatter).

A. General specifications

Class of turfgrass sod shall be Maryland or Virginia State Certified or Approved. Sod labels shall be made available to the job foreman and inspector.

II. Sod shall be machine cut at a uniform soil thickness of 3/4", plus or minus 1/4", at the time of cutting. Measurement for thickness shall exclude top growth and thatch. Individual pieces of sod shall be cut to the suppliers width and length. Maximum allowable deviation from standard widths and lengths shall be 5 percent. Broken pads and torn or uneven ends will not be acceptable.

III. Standard size sections of sod shall be strong enough to support their own weight and retain their size and shape when suspended vertically with a firm grasp on the upper 10 percent of the section.

IV. Sod shall not be harvested or transplanted when moisture content (excessively dry or wet) may adversely affect its survival.

V. Sod shall be harvested, delivered, and installed within a period of 36 hours. Sod not transplanted within this period shall be approved by an agronomist or soil scientist prior to its installation.

B. Sod Installation

I. During periods of excessively high temperature or in areas having dry subsoil, the subsoil shall be lightly irrigated immediately proper to laying the sod.

II. The first row of sod shall be laid in a straight line with subsequent rows placed parallel to and tightly wedged against each other. Lateral joints shall be staggered to promote more uniform growth and strength. Ensure that sod is not stretched or overlapped and that all joints are butted tight in order to prevent voids which would cause air drying of the roots.

III. Whenever possible, sod shall be laid with the long edges parallel to the contour and with staggering joints. Sod shall be rolled and tamped, pegged or otherwise secured to prevent slippage on slopes and to ensure solid contact between sod roots and the underlying soil surface.

IV. Sod shall be watered immediately following rolling or tamping until the underside of the new sod pad and soil surface below the sod are thoroughly wet. The operations of laying, tamping and irrigating for any piece of sod shall be completed within eight hours.

C. Sod Maintenance

I. In the absence of adequate rainfall, watering shall be performed daily or as often as necessary during the first week and in sufficient quantities to maintain moist soil to a depth of 4". Watering should be done during the heat of the day to prevent wilting.

II. After the first week, sod watering is required as necessary to maintain adequate moisture content.

III. The first mowing of sod should not be attempted until the sod is firmly rooted. No more than 1/3 of the grass leaf shall be removed by the initial cutting or subsequent cuttings. Grass height shall be maintained between 2" and 3" unless otherwise specified.

GENERAL NOTES

1.) Refer to "1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control" for standard details and detailed specifications of each practice specified herein.

2.) With the approval of the sediment control inspector, minor field adjustments can and will be made to insure the control of any sediment. Changes in sediment control practices require prior approval of the sediment control inspector and the Baltimore County Soil Conservation District.

3.) At the end of each working day, all sediment control practices will be inspected and left in operational condition.

4.) Following initial soil disturbance or redisturbance, permanent or temporary stabilization shall be completed within: a.) seven calendar days as to the surface of all perimeter controls, dikes, swales, ditches, perimeter slopes, and all slopes greater than three horizontal to one vertical (3:1), and b.) fourteen days as to all other disturbed or graded areas on the project site which will remain idle over fourteen days.

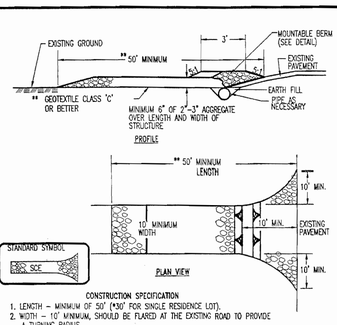
5.) Any change to the grading proposed on this plan requires re-submission to the Baltimore County Soil Conservation District for approval.

6.) Dust control will be provided for all disturbed areas. Refer to "1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control", page II-30-1, or acceptable methods and specifications for dust control.

7.) Any variation from the sequence of operations stated on this plan requires the approval of the sediment control inspector and the Baltimore County Soil Conservation District prior to the initiation of the change.

8.) Excess cut or borrow material shall go to, or come from, respectively, a site with an open grading permit.

9.) The following item may be used as applicable. Refer to "Maryland's Waterway Construction Guidelines" by MD. Dept. of the Environment (MDE), Water Management Administration (WMA) Revised November, 2000 for standard details and detailed specifications of each practice practice specified herein for waterway construction.



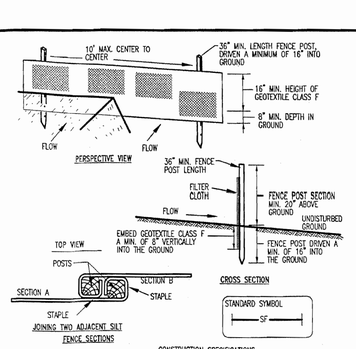
CONSTRUCTION SPECIFICATION

1. LENGTH - MINIMUM OF 50' (*30' FOR SINGLE RESIDENCE LOT).
2. WIDTH - 10' MINIMUM, SHOULD BE FLARED AT THE EXISTING ROAD TO PROVIDE A TURNING RADIUS.
3. GEOTEXTILE FABRIC (FILTER CLOTH) SHALL BE PLACED OVER THE EXISTING GROUND PRIOR TO PLACING STONE. **THE PLAN APPROVAL AUTHORITY MAY NOT REQUIRE SINGLE FAMILY RESIDENCES TO USE GEOTEXTILE.
4. STONE - CRUSHED AGGREGATE (2" TO 3") OR RECLAIMED OR RECYCLED CONCRETE EQUIVALENT SHALL BE PLACED AT LEAST 8" DEEP OVER THE LENGTH AND WIDTH OF THE ENTRANCE.
5. SURFACE WATER - ALL SURFACE WATER FLOWING TO OR DIVERTED TOWARD CONSTRUCTION ENTRANCES SHALL BE PIPED THROUGH THE ENTRANCE, MAINTAINING POSITIVE DRAINAGE. PIPE INSTALLED THROUGH THE STABILIZED CONSTRUCTION ENTRANCE SHALL BE PROTECTED WITH A MOUNTABLE BERM WITH 5:1 SLOPES AND A MINIMUM OF 6" OF STONE OVER THE PIPE. PIPE HAS TO BE SIZED ACCORDING TO THE DRAINAGE. WHEN THE SCE IS LOCATED AT A HIGH SPOT AND HAS NO DRAINAGE TO CONVEY, A PIPE WILL NOT BE NECESSARY. PIPE SHOULD BE SIZED ACCORDING TO THE AMOUNT OF RUNOFF TO BE CONVEYED. A 6" MINIMUM WILL BE REQUIRED.
6. LOCATION - A STABILIZED CONSTRUCTION ENTRANCE SHALL BE LOCATED AT EVERY POINT WHERE CONSTRUCTION TRAFFIC ENTERS OR LEAVES A CONSTRUCTION SITE. VEHICLES LEAVING THE SITE MUST TRAVEL OVER THE ENTIRE LENGTH OF THE STABILIZED CONSTRUCTION ENTRANCE.

STABILIZED CONSTRUCTION ENTRANCE

E-113

NOT TO SCALE



CONSTRUCTION SPECIFICATIONS

1. FENCE POSTS SHALL BE A MINIMUM OF 36" LONG DRIVEN 16" MINIMUM INTO THE GROUND. WOOD POSTS SHALL BE 1 1/2" X 1 1/2" SQUARE (MINIMUM) CUT, OR 1 3/4" DIA. (MINIMUM) ROUND AND SHALL BE OF SOUND QUALITY HARDWOOD. STEEL POSTS WILL BE STANDARD T OR U SECTION WEIGHTING NOT LESS THAN 1.00 POND PER LINEAR FOOT.
2. GEOTEXTILE SHALL BE FASTENED SECURELY TO EACH FENCE POST WITH WIRE TIES OR STAPLES AT TOP AND MID-SECTION AND SHALL MEET THE FOLLOWING REQUIREMENTS FOR GEOTEXTILE CLASS F:

TENSILE STRENGTH	50 LBS/IN (MIN.)	TEST: MSMT 509
TENSILE MODULUS	20 LBS/IN (MIN.)	TEST: MSMT 509
FLOW RATE	0.3 GAL FT / MINUTE (MAX.)	TEST: MSMT 322
FILTERING EFFICIENCY	75% (MIN.)	TEST: MSMT 322

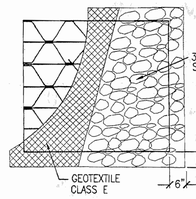
3. WHERE ENDS OF GEOTEXTILE FABRIC COME TOGETHER, THEY SHALL BE OVERLAPPED, FOLDED AND STAPLED TO PREVENT SEDIMENT BYPASS.
4. SILT FENCE SHALL BE INSPECTED AFTER EACH RAINFALL EVENT AND MAINTAINED WHEN BULGES OCCUR OR WHEN SEDIMENT ACCUMULATION REACHED 50% OF THE FABRIC HEIGHT.

CLASS	APPARENT OPENING SIZE MM. MAX.	GRAB TENSILE STRENGTH LB. MIN.	BURST STRENGTH PSI MIN.
F (SILT FENCE)	0.40 - 0.80*	90	190

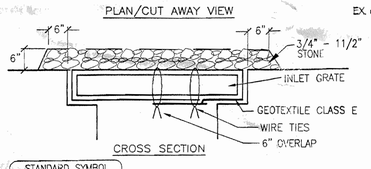
* US STD. SIEVE OW-02215

SILT FENCE

NOT TO SCALE



PLAN/CUT AWAY VIEW



CROSS SECTION

STANDARD SYMBOL AGIP

MAX. DRAINAGE AREA = 1/4 ACRE

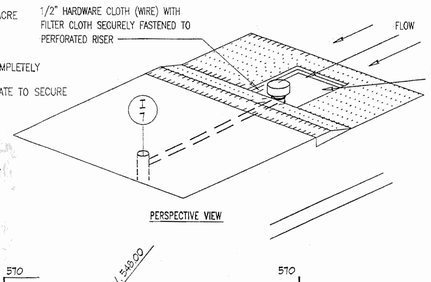
CONSTRUCTION SPECIFICATIONS

1. LIFT GRATE AND WRAP WITH GEOTEXTILE CLASS E TO COMPLETELY COVER ALL OPENINGS THEN SET GRATE BACK IN PLACE.
2. PLACE 3/4" TO 1 1/2" STONE, 4"-6" THICK ON THE GRATE TO SECURE THE FABRIC AND PROVIDE ADDITIONAL FILTRATION.

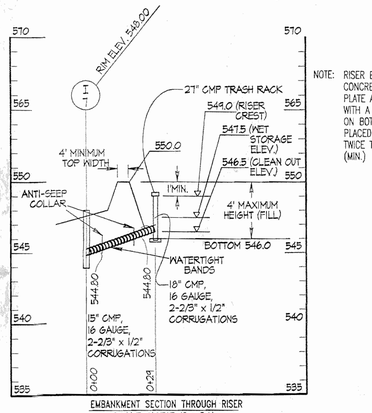
AT GRADE INLET PROTECTION

E-252-2.DWG

NOT TO SCALE



PERSPECTIVE VIEW



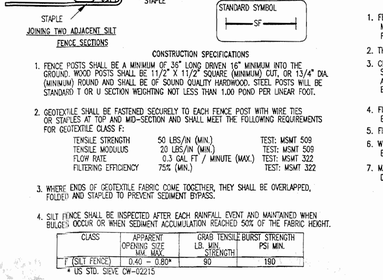
EMBANKMENT SECTION THROUGH RISER

SCALE: HORIZ. 1" = 30'
VERT. 1" = 5'

NOTE: RISER EMBEDDED 9" INTO CONCRETE OR 1/4" STEEL PLATE ATTACHED TO RISER WITH A CONTINUOUS WELD ON BOTTOM AND 2' OF STONE PLACED ON STEEL PLATE TWICE THE RISER DIAMETER (MIN.)

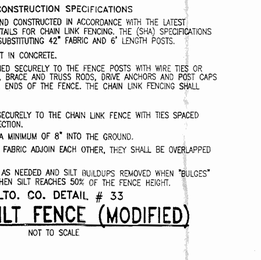
MODIFIED PIPE OUTLET SEDIMENT TRAP - ST 1

NOT TO SCALE



TEMPORARY CURB #2 OUTFALL

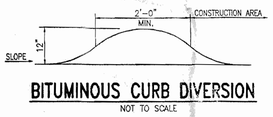
SCALE: 1" = 2'



Filter cloth shall be Geotextile Class 'C', or better.

MOUNTABLE BERM

NOT TO SCALE

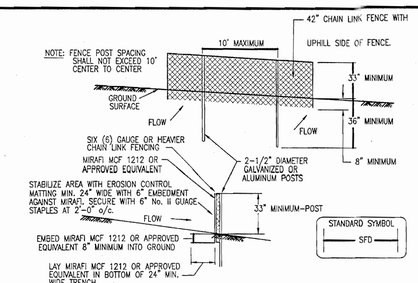


BITUMINOUS CURB DIVERSION

NOT TO SCALE

PIPE OUTLET SEDIMENT TRAP
CONSTRUCTION SPECIFICATIONS

1. THE AREA UNDER THE EMBANKMENT SHALL BE CLEARED, GRUBBED AND STRIPPED OF ANY VEGETATION AND ROOT MAT. THE POOL AREA SHALL BE CLEARED.
2. THE FILL MATERIAL FOR THE EMBANKMENT SHALL BE FREE OF ROOTS OR OTHER WOODY VEGETATION AS WELL AS OVERSIZED STONES, ROCKS, ORGANIC MATERIAL OR OTHER OBJECTIONABLE MATERIAL. THE EMBANKMENT SHALL BE COMPACTED BY TRAVERSING WITH EQUIPMENT WHILE IT IS BEING CONSTRUCTED.
3. THE TOTAL TRAP VOLUME AS MEASURED FROM THE BOTTOM TO RISER CREST ELEVATION SHALL BE 3600 CUBIC FEET PER ACRE OF DRAINAGE AREA (SEE TABLE 9). THE TOP OF EMBANKMENT MUST BE ≥ 1' ABOVE THE RISER CREST ELEVATION.
4. SEDIMENT SHALL BE REMOVED AND THE TRAP RESTORED TO ITS ORIGINAL DIMENSIONS WHEN THE SEDIMENT HAS ACCUMULATED TO ONE-HALF OF THE WET STORAGE DEPTH OF THE TRAP (900CF/AC). THE SEDIMENT SHALL BE DEPOSITED IN A SUITABLE AREA AND IN SUCH A MANNER THAT IT WILL NOT ERODE.
5. THE STRUCTURE SHALL BE INSPECTED PERIODICALLY AND AFTER EACH RAIN AND REPAIRS MADE AS NECESSARY.
6. CONSTRUCTION OPERATIONS SHALL BE CARRIED OUT IN SUCH A MANNER THAT EROSION AND WATER POLLUTION ARE ABATED. ONCE CONSTRUCTED, THE TOP AND OUTSIDE FACE OF THE EMBANKMENT SHALL BE STABILIZED WITH SEED AND MULCH. POINTS OF CONCENTRATED INFLOW SHALL BE PROTECTED IN ACCORDANCE WITH GRADE STABILIZATION STRUCTURE CRITERIA. THE REMAINDER OF THE INTERIOR SLOPES SHOULD BE STABILIZED (ONE TIME) WITH SEED AND MULCH UPON TRAP COMPLETION AND MONITORED AND MAINTAINED EROSION FREE DURING THE LIFE OF THE TRAP.
7. THE STRUCTURE SHALL BE REMOVED AND AREA STABILIZED WHEN THE DRAINAGE AREA HAS BEEN PROPERLY STABILIZED.
8. ALL CUT AND FILL SLOPES SHALL BE 2:1 OR FLATTER.
9. ALL PIPE CONNECTIONS SHALL BE WATERTIGHT.
10. ABOVE THE WET STORAGE ELEVATION, THE RISER SHALL BE PERFORATED WITH 1/2" WIDE BY 6" LONG SLITS OR 1" DIAMETER HOLES SPACED 6" VERTICALLY AND HORIZONTALLY. NO PERFORATIONS WILL BE ALLOWED WITHIN 6" OF THE HORIZONTAL BARREL.
11. THE RISER SHALL BE WRAPPED WITH 1/2" HARDWARE CLOTH (WIRE) THEN WRAPPED WITH GEOTEXTILE CLASS E. THE FILTER CLOTH SHALL EXTEND 6" ABOVE THE HIGHEST SLIT AND 6" BELOW THE LOWEST SLIT. WHERE ENDS OF FILTER CLOTH COME TOGETHER, THEY SHALL BE OVERLAPPED, FOLDED AND FASTENED TO PREVENT BYPASS. FILTER CLOTH SHALL BE REPLACED AS NECESSARY TO PREVENT CLOGGING.
12. STRAPS OR CONNECTING BANDS SHALL BE USED TO HOLD THE FILTER CLOTH AND WIRE FABRIC IN PLACE. THEY SHALL BE PLACED AT THE TOP AND BOTTOM OF THE CLOTH.
13. FILL MATERIAL AROUND THE PIPE SPILLWAY SHALL BE HAND COMPACTED IN 4" LAYERS. A MINIMUM OF 2' OF HAND-COMPACTED BACKFILL SHALL BE PLACED OVER THE PIPE SPILLWAY BEFORE CROSSING IT WITH CONSTRUCTION EQUIPMENT.
14. THE RISER SHALL BE ANCHORED WITH EITHER A CONCRETE BASE OR STEEL PLATE BASE TO PREVENT FLOTATION. CONCRETE BASES SHALL BE AT LEAST TWICE THE RISER DIAMETER AND 12" DEEP WITH THE RISER EMBEDDED 9". STEEL PLATE BASES SHALL BE AT LEAST TWICE THE RISER DIAMETER, 1/4" MINIMUM THICKNESS AND ATTACHED TO THE BOTTOM OF THE RISER BY A CONTINUOUS WELD TO FORM A WATERTIGHT CONNECTION. THEN PLACE 2' OF STONE, GRAVEL OR TAMPED EARTH ON THE PLATE.
15. ANTI SEEP COLLARS SHALL BE CONSTRUCTED IN ACCORDANCE WITH PLANS (REF. TABLE 16 AND DETAILS 13 AND 14).
16. CONCENTRIC TRASH RACK AND ANTI-VORTEX DEVICE DESIGN DETAILS ARE ON SHEET ___ OF ___.
17. REFER TO SECTION D FOR DEWATERING REQUIREMENTS OF SEDIMENT TRAPS.
18. OUTLET - AN OUTLET SHALL BE PROVIDED, WHICH INCLUDES A MEANS OF CONVEYING THE DISCHARGE IN AN EROSION FREE MANNER TO AN EXISTING STABLE CHANNEL.
19. WHERE DISCHARGE OCCURS AT THE PROPERTY LINE, LOCAL ORDINANCES AND DRAINAGE EASEMENT REQUIREMENTS SHALL BE MET.



CONSTRUCTION SPECIFICATIONS

1. FENCING SHALL BE 42" IN HEIGHT AND CONSTRUCTED IN ACCORDANCE WITH THE LATEST MARYLAND STATE HIGHWAY (SHA) DETAILS FOR CHAIN LINK FENCING. THE (SHA) SPECIFICATIONS FOR A 6' FENCE SHALL BE USED, SUBSTITUTING 42" FABRIC AND 6' LENGTH POSTS.
2. THE POSTS DO NOT NEED TO BE SET IN CONCRETE.
3. CHAIN LINK FENCE SHALL BE FASTENED SECURELY TO THE FENCE POSTS WITH WIRE TIES OR STAPLES. THE LOWER TENSION WIRE, BRACE AND TRUSS RODS, DRIVE ANCHORS AND POST CAPS ARE NOT REQUIRED EXCEPT ON THE ENDS OF THE FENCE. THE CHAIN LINK FENCING SHALL BE SIX (6) GAUGE OR HEAVIER.
4. FILTER CLOTH SHALL BE FASTENED SECURELY TO THE CHAIN LINK FENCE WITH TIES SPACED EVERY 24" AT THE TOP AND MID SECTION.
5. FILTER CLOTH SHALL BE EMBEDDED A MINIMUM OF 8" INTO THE GROUND.
6. WHEN TWO SECTIONS OF GEOTEXTILE FABRIC ADJOIN EACH OTHER, THEY SHALL BE OVERLAPPED BY 6" AND FOLDED.
7. MAINTENANCE SHALL BE PERFORMED AS NEEDED AND SILT BUILDUPS REMOVED WHEN "BULGES" DEVELOP IN THE SILT FENCE, OR WHEN SILT REACHES 50% OF THE FENCE HEIGHT.

BALTO. CO. DETAIL # 33

SUPER SILT FENCE (MODIFIED)

NOT TO SCALE

CONSTRUCTION SPECIFICATIONS

1. FENCING SHALL BE 42" IN HEIGHT AND CONSTRUCTED IN ACCORDANCE WITH THE LATEST MARYLAND STATE HIGHWAY (SHA) DETAILS FOR CHAIN LINK FENCING. THE (SHA) SPECIFICATIONS FOR A 6' FENCE SHALL BE USED, SUBSTITUTING 42" FABRIC AND 6' LENGTH POSTS.
2. THE POSTS DO NOT NEED TO BE SET IN CONCRETE.
3. CHAIN LINK FENCE SHALL BE FASTENED SECURELY TO THE FENCE POSTS WITH WIRE TIES OR STAPLES. THE LOWER TENSION WIRE, BRACE AND TRUSS RODS, DRIVE ANCHORS AND POST CAPS ARE NOT REQUIRED EXCEPT ON THE ENDS OF THE FENCE. THE CHAIN LINK FENCING SHALL BE SIX (6) GAUGE OR HEAVIER.
4. MIRAFI MCF 1212 OR APPROVED EQUIVALENT SHALL BE FASTENED SECURELY TO THE CHAIN LINK FENCE WITH TIES SPACED EVERY 24" AT THE TOP AND MID SECTION.

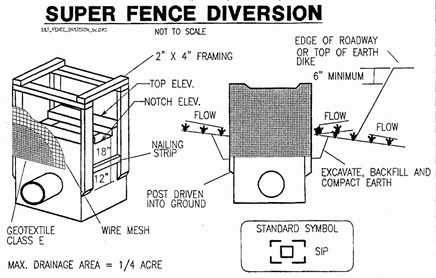
BE OVERLAPPED BY 6" AND FOLDED.

7. MAINTENANCE SHALL BE PERFORMED AS NEEDED.
8. MAXIMUM FLOW SLOPE 10.0%.
9. MAXIMUM DRAINAGE AREA 5 ACRES.

BALTO. CO. DETAIL # 33 (MODIFIED)

SUPER FENCE DIVERSION

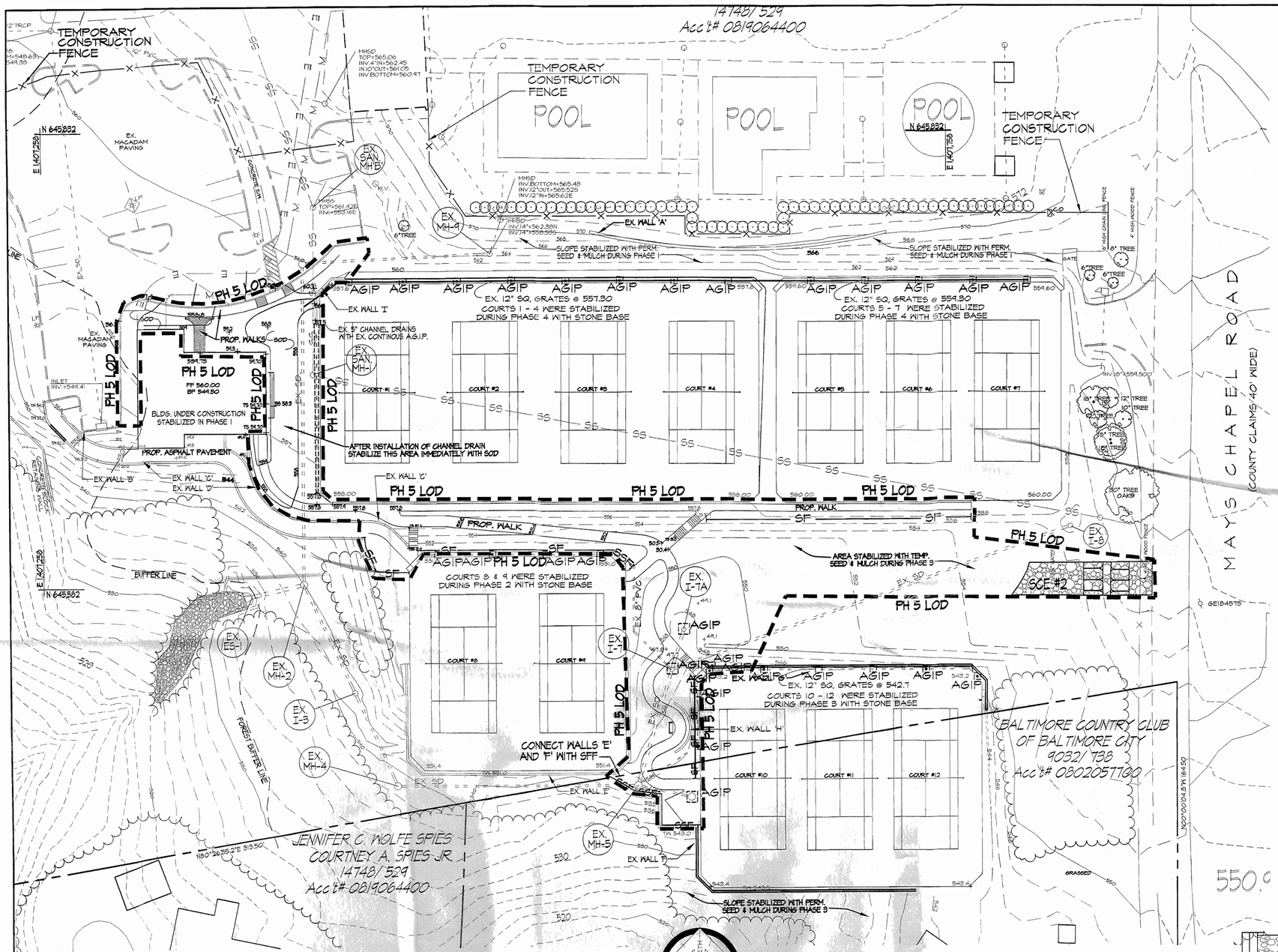
NOT TO SCALE



MAX. DRAINAGE AREA = 1/4 ACRE

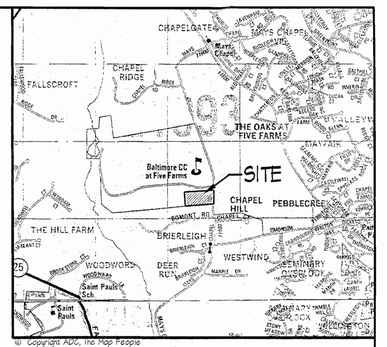
CONSTRUCTION SPECIFICATIONS

1. EXCAVATE COMPLETELY AROUND THE INLET TO A DEPTH OF 18" BELOW THE NOTCH ELEVATION.
2. DRIVE THE 2" X 4" CONSTRUCTION GRADE LUMBER POSTS 1' INTO THE GROUND AT EACH CORNER OF THE INLET. PLACE NAIL STRIPS BETWEEN THE POSTS ON THE ENDS OF THE INLET. ASSEMBLE THE TOP PORTION OF THE 2" X 4" FRAME USING THE OVERLAP JOINT SHOWN ON DETAIL 23A. THE TOP OF THE FRAME (WEIR) MUST BE 6" BELOW ADJACENT ROADWAYS WHER



LEGEND

- PROPERTY LINE
- EXISTING CONTOURS
- PROPOSED CONTOURS
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB
- PROPOSED CURB
- EXISTING STORMDRAINS
- PROPOSED STORMDRAINS
- EXISTING SANITARY SEWER
- PROPOSED SANITARY SEWER
- EXISTING WATER & FIRE HYDRANT
- PROPOSED WATER
- EXISTING BUILDINGS
- PROPOSED BUILDINGS
- SP — SUMP PIT
- SCE — STABILIZED CONSTRUCTION ENTRANCE WITH MOUNTABLE BERM
- AGIP — AT GRADE INLET PROTECTION
- SFD — SUPER FENCE DIVERSION
- SF — SILT FENCE
- LOD — LIMIT OF DISTURBANCE
- SSF — SUPER SILT FENCE
- TP — TREE PROTECTION FENCE
- TEMPORARY ASPHALT CURB



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VICINITY MAP

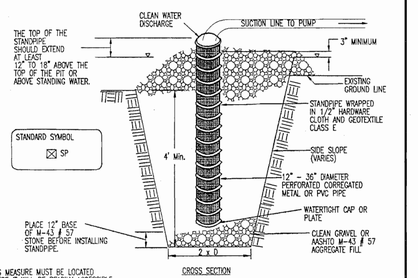
1"=2000'

BENCHMARKS:

BCO # 418 N 639,023.13 E 1,405,063.54 ELEV. 329.95
5/8" REBAR GREENSPRING VALLEY RD. @ FALLS RD.

NGS PARKS N 652,786.92 E 1,404,301.21 ELEV. 656.44
STANDARD CONCRETE MONUMENT NDS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.

NAD83/91 & NAVD88 IN USE.



NOTE: THIS MEASURE MUST BE LOCATED WHERE IT WILL BE READILY ACCESSIBLE TO ALLOW FOR ITS PRACTICAL USAGE.

CROSS SECTION

CONSTRUCTION SPECIFICATIONS

1. PIT DIMENSIONS ARE VARIABLE, WITH THE MINIMUM DIAMETER BEING 2 TIMES THE STANDPIPE DIAMETER.
2. THE STANDPIPE SHOULD BE CONSTRUCTED BY PERFORATING A 12" TO 24" DIAMETER CORRUGATED OR PVC PIPE. THEN WRAPPING WITH 1/2" HARDWARE CLOTH AND GEOTEXTILE CLASS C. THE PERFORATIONS SHALL BE 1/2" X 6" SLITS OR 1" DIAMETER HOLES.
3. A BASE OF FILTER MATERIAL CONSISTING OF CLEAN GRAVEL OR #57 STONE SHOULD BE PLACED IN THE PIT TO A DEPTH OF 12". AFTER INSTALLING THE STANDPIPE, THE PIT SURROUNDING THE STANDPIPE SHOULD THEN BE BACKFILLED WITH THE SAME FILTER MATERIAL.
4. THE STANDPIPE SHOULD EXTEND 12" TO 18" ABOVE THE LIP OF THE PIT OR THE RISER CREST ELEVATION (BASIN DEWATERING ONLY) AND THE FILTER MATERIAL SHOULD EXTEND 3" MINIMUM ABOVE THE ANTICIPATED STANDING WATER ELEVATION.

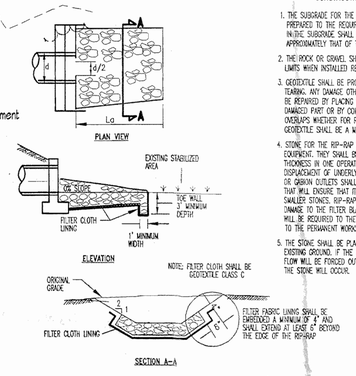
SUMP PIT

NOT TO SCALE

PHASE 5 LOD: 30,552 SF; 0.70 AC.
TOTAL DISTURBED AREA = 3.8 AC. SEC 5 OF 7

PHASE 5 SEQUENCE OF OPERATIONS - WALKS, & LANDSCAPING

1. Install silt fence north of courts 8-9 and west of courts 10-12.
2. Notify Baltimore County Department of Environment Protection and Resource Management, Inspection and Enforcement Division, upon completion of said installation.
3. With the approval of Baltimore County Department of Environmental Protection and Resource Management, and the sediment control inspector, clear and grub remainder of site.
4. Construct walks.
5. Install yard inlets between building and tennis court #1 and connect to existing storm drain. Fine grade and apply sod immediately.
6. Fine grade along edge of walks and apply permanent seed and mulch to the areas.
7. Upon stabilization of site with established vegetation and with the permission of the sediment control inspector, remove erosion and sediment control measures. Stabilize any remaining areas disturbed by this process.



ROCK OUTLET PROTECTION III

FIG 8.06

NOT TO SCALE

CONSTRUCTION SPECIFICATIONS

1. THE SUBGRADE FOR THE FILTER, RIP-RAP, OR GABION SHALL BE PREPARED TO THE REQUIRED LINES AND GRADES. ANY FILL REQUIRED IN THE SUBGRADE SHALL BE COMPACTED TO A DENSITY OF APPROXIMATELY THAT OF THE SURROUNDING UNDISTURBED MATERIAL.
2. THE ROCK OR GRAVEL SHALL CONFORM TO THE SPECIFIED GRADING LIMITS WHEN INSTALLED RESPECTIVELY IN THE RIP-RAP OR FILTER.
3. GEOTEXTILE SHALL BE PROTECTED FROM PUNCHING, CUTTING, OR TEARING. ANY DAMAGE OTHER THAN AN OCCASIONAL SMALL HOLE SHALL BE REPAIRED BY PLACING ANOTHER PIECE OF GEOTEXTILE OVER THE DAMAGED PART OR BY COMPLETELY REPLACING THE GEOTEXTILE. ALL OVERLAPS WHETHER FOR REPAIRS OR FOR JOINING TWO PIECES OF GEOTEXTILE SHALL BE A MINIMUM OF ONE FOOT.
4. STONE FOR THE RIP-RAP OR GABION OUTLETS MAY BE PLACED BY EQUIPMENT. THEY SHALL BE CONSTRUCTED TO THE FULL COURSE THICKNESS IN ONE OPERATION AND IN SUCH A MANNER AS TO AVOID DISPLACEMENT OF UNDERLYING MATERIALS. THE STONE FOR RIP-RAP OR GABION OUTLETS SHALL BE DELIVERED AND PLACED IN A MANNER THAT WILL ENSURE THAT IT IS REASONABLY HOMOGENEOUS WITH THE SMALLER STONES, RIP-RAP SHALL BE PLACED IN A MANNER TO PREVENT DAMAGE TO THE FILTER BLANKET OR GEOTEXTILE. HAND PLACEMENT WILL BE REQUIRED TO THE EXTENT NECESSARY TO PREVENT DAMAGE TO THE PERMANENT WORKS.
5. THE STONE SHALL BE PLACED SO THAT IT BLENDS IN WITH THE EXISTING GROUND. IF THE STONE IS PLACED TOO HIGH THEN THE FLOW WILL BE FORCED OUT OF THE CHANNEL AND SCOUR ADJACENT TO THE STONE WILL OCCUR.

Phase 5 Sediment & Erosion Control Plan

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14377 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

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DESIGNED BY:	JGT	SCALE:	1" = 30'
CHECKED BY:	JLS	SRI PROJECT NO:	02144
DATE:	12/24/08	SHEET	SD-7 OF SD-18

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POOL BUILDING

BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY
14748/529
Acc't# 08190644OO

TEMPORARY CONSTRUCTION FENCE

POOL

EX. MACADAM PAVING

EX. MACADAM PAVEMENT

EX. (PHASE 1) SFD

SLOPE STABILIZED WITH PERM. SEED & MULCH DURING PHASE 1

PH 4 LOD

WALL 'A' TW 560.5

EX. AGIP

PROP. 12" SQ. GRATES @ 551.30

PROP. 12" SQ. GRATES @ 554.30

SOD SWALE IMMEDIATELY

EX. SOD (PHASE 3)

RELOCATE EX. (PHASE 1) SSF

CARRY SSF PAST END OF WALL 'C'

REMOVE EX. TEMPORARY PIPE AND TEMPORARY ASPHALT CURB #2

COMPLETE WALL 'D' AFTER REMOVAL OF TEMPORARY PIPE AND TEMPORAY CURB #2.

BLDG. UNDER CONSTRUCTION STABILIZED IN PHASE 1

EX. STONE BASE

EX. WALL 'C'

EX. WALL 'D'

EX. (PHASE 2) PIPE OUTLET SEDIMENT TRAP #1

EX. 12" SQ. GRATES @ 550.70

COURTS 5 & 9 WERE STABILIZED DURING PHASE 2 WITH STONE BASE

EX. 12" SQ. GRATES @ 542.7

COURTS 10 - 12 WERE STABILIZED DURING PHASE 3 WITH STONE BASE

SCE #2

MAYS CHAPEL ROAD (COUNTY CLAIMS 40' WIDE)

BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY
9032/138
Acc't# 08020577OO

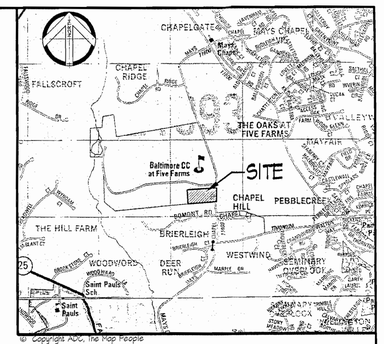
JENNIFER C. WOLFE SPIES
COURTNEY A. SPIES JR.
14748/529
Acc't# 0819064400

AFTER GRASS IS ESTABLISHED SOUTH AND EAST OF COURTS 10-12 WITH PERMISSION OF THE SEDIMENT CONTROL INSPECTOR, REMOVE THE SUPER SILT FENCE AND STABILIZE AREAS DISTURBED BY REMOVAL WITH PERM. SEED & MULCH.

FOREST BUFFER LINE

LEGEND

- PROPERTY LINE
- EXISTING CONTOURS
- PROPOSED CONTOURS
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB
- PROPOSED CURB
- EXISTING STORMDRAINS
- PROPOSED STORMDRAINS
- EXISTING SANITARY SEWER
- PROPOSED SANITARY SEWER
- EXISTING WATER & FIRE HYDRANT
- PROPOSED WATER
- EXISTING BUILDINGS
- PROPOSED BUILDINGS
- SUMP PIT
- STABILIZED CONSTRUCTION ENTRANCE WITH MOUNTABLE BERM
- AT GRADE INLET PROTECTION
- SUPER FENCE DIVERSION
- SILT FENCE
- LIMIT OF DISTURBANCE
- SUPER SILT FENCE
- TREE PROTECTION FENCE
- TEMPORARY ASPHALT CURB



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VICINITY MAP

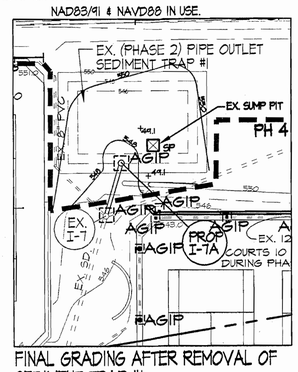
1"=2000'

BENCHMARKS:

BCO # 418 N 634,023.18 E 1,405,063.54 ELEV. 329.95
5/8" REBAR GREENSPRING VALLEY RD. @ FALLS RD.

NGS PARKS N 652,786.92 E 1,404,301.21 ELEV. 656.44
STANDARD CONCRETE MONUMENT NDS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.

NAD83/91 & NAVD88 IN USE.



FINAL GRADING AFTER REMOVAL OF SEDIMENT TRAP #1
Scale: 1"=30'

PHASE 4 SEQUENCE OF OPERATIONS - TENNIS COURTS 1-7

1. Remove temp. asphalt curb #2 and install super silt fence south of courts 1-4 and 5-7.
2. Notify Baltimore County Department of Environment Protection and Resource Management, Inspection and Enforcement Division, upon completion of said installation.
3. With the approval of Baltimore County Department of Environmental Protection and Resource Management, and the sediment control inspector, clear and grub remainder of site.
4. Complete removal of existing pavement. Clear & grub remaining area.
5. Grade swale east of court 7 (connect to ex. swale) and sod immediately
6. Rough grade for tennis courts 1 - 7. Install storm drainage for courts 1 - 7 and install AGIP.
7. Install tennis courts 1 - 7. (Except for top surface)
8. Stabilize all other disturbed areas with permanent seed & mulch.
9. With permission of the sediment control inspector, remove sediment trap #1, install inlet 7A, provide inlet protection and stabilize with seed and mulch. All the area draining in to the sediment trap should be permanently stabilized with established vegetation prior to removal of sediment trap.

With permission of the sediment control inspector, proceed to phase 5.

PHASE 4 LOD: 74,251 SF; 1.70 AC.
TOTAL DISTURBED AREA = 3.8 AC.

SEC 4 OF 7

Phase 4 Sediment & Erosion Control Plan

Baltimore Country Club Tennis Facility

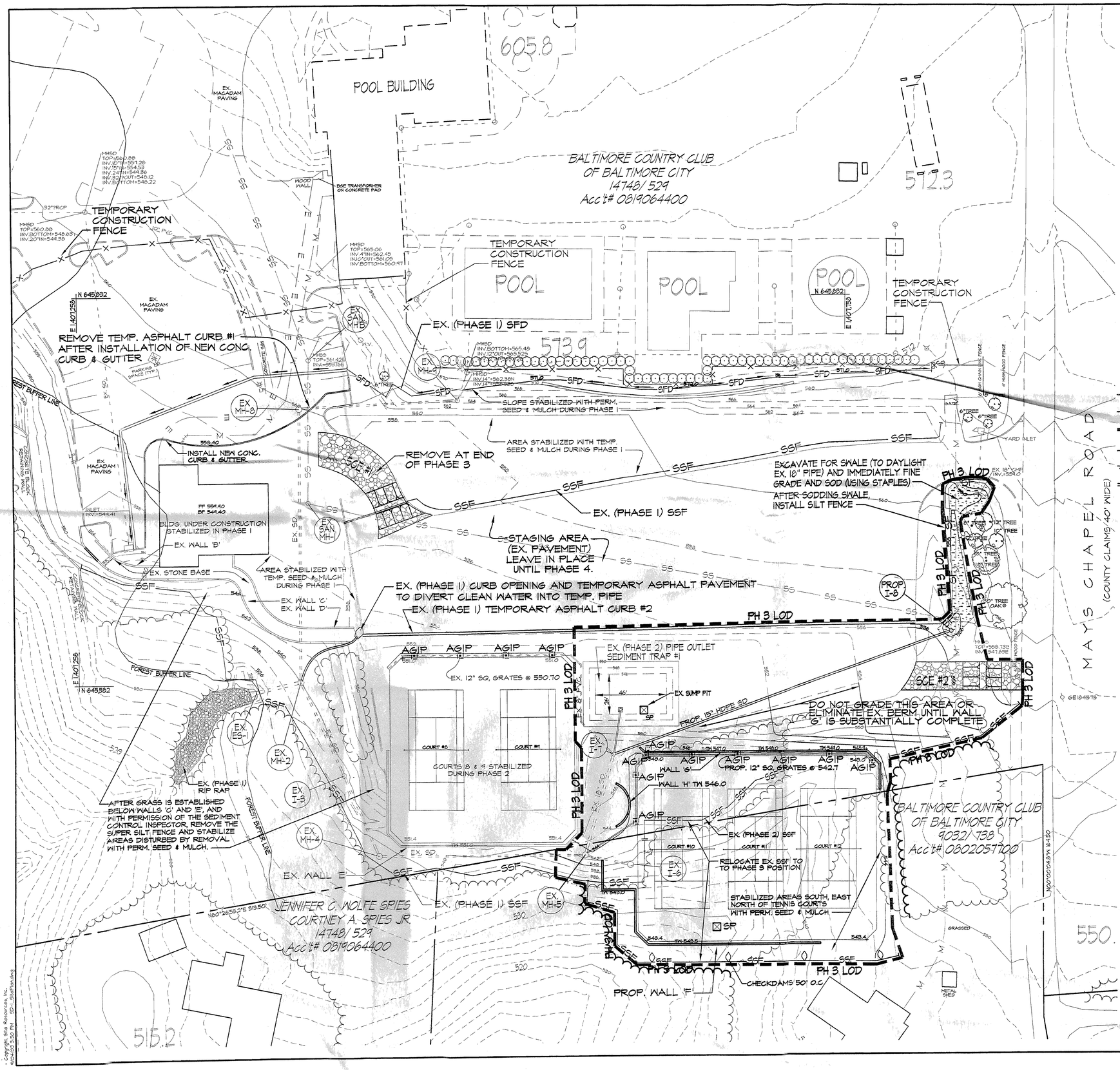
BALTIMORE COUNTY, MD

REVISIONS

SITE RESOURCES
Incorporated
Comprehensive Land Planning & Site Design Services
14077 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

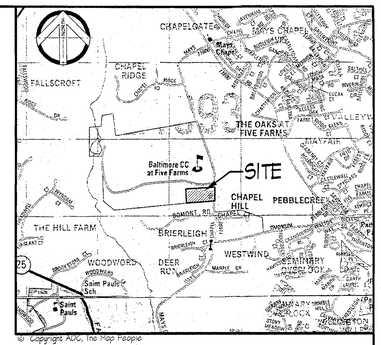
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DATE:	12/24/03	SHEET	SD-6 OF SD-18

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LEGEND

- PROPERTY LINE
- EXISTING CONTOURS
- PROPOSED CONTOURS
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB
- PROPOSED CURB
- EXISTING STORMDRAINS
- PROPOSED STORMDRAINS
- EXISTING SANITARY SEWER
- PROPOSED SANITARY SEWER
- EXISTING WATER & FIRE HYDRANT
- PROPOSED WATER
- EXISTING BUILDINGS
- PROPOSED BUILDINGS
- STABILIZED CONSTRUCTION ENTRANCE WITH MOUNTABLE BERM
- AT GRADE INLET PROTECTION
- SUMP PIT
- SUPER FENCE DIVERSION
- SILT FENCE
- LIMIT OF DISTURBANCE
- SUPER SILT FENCE
- TREE PROTECTION FENCE
- TEMPORARY ASPHALT CURB



VICINITY MAP 1"=2000'

BENCHMARKS:

BCO # 418	N 639,023.18	E 1,405,063.54	ELEV. 329.95
5/8" REBAR GREENSPRING VALLEY RD. @ FALLS RD.			
NGS PARKS	N 652,786.62	E 1,404,301.21	ELEV. 656.44
STANDARD CONCRETE MONUMENT NDS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.			

NAD83/91 & NAVD88 IN USE.

PHASE 3 SEQUENCE OF OPERATIONS - TENNIS COURTS #10 - 12

1. Install storm drain from existing inlet 'Ex.I-7' to proposed inlet 'Prop. I-8'; grade swale to I-8 and stabilize with sod using staples; install silt fence on west side and north side of swale. Remove temporary pipe under SCE #2 and immediately stabilize disturbed areas.
2. Clear and grub only as necessary to install super silt fence (SSF) south of tennis courts #10-12, and install said SSF. Relocate and connect portions of phase 1 and phase 2 SSF as part of this process.
3. Notify Baltimore County Department of Environment Protection and Resource Management, Inspection and Enforcement Division, upon completion of said installation.
4. With the approval of Baltimore County Department of Environmental Protection and Resource Management, and the sediment control inspector, clear and grub remainder of site.
5. Clear, grub and strip topsoil only as required to install wall 'F'. Begin construction of wall 'F' and backfill using material excavated from above wall 'F'. (As wall height increases, the wall will be a barrier to collect silt-ladden runoff.) Provide sump pit for dewatering.
6. Install retaining walls 'G' and 'H' and drainage for tennis courts 10 - 12. Install AGIP at all inlets.
7. Install tennis courts 10 - 12. (Except for top surface)
8. With permission of the sediment control inspector, remove stabilized construction entrance #1, and super silt fence below walls 'C' and 'E'. All the areas draining to the SSF should be permanently stabilized with estabilished vegitation prior to removal.
9. Stabilize areas south, east, and north of tennis courts 10-12 with permanent seed and mulch. The area between courts 9 and 10 shall be stabilized with temporary seed & mulch.

With permission of the sediment control inspector, proceed to phase 4.

PHASE 3 LOD: 52,200 SF; 1.2 AC.
TOTAL DISTURBED AREA = 3.8 AC. SEC 3 OF 7

Phase 3 Sediment & Erosion Control Plan

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

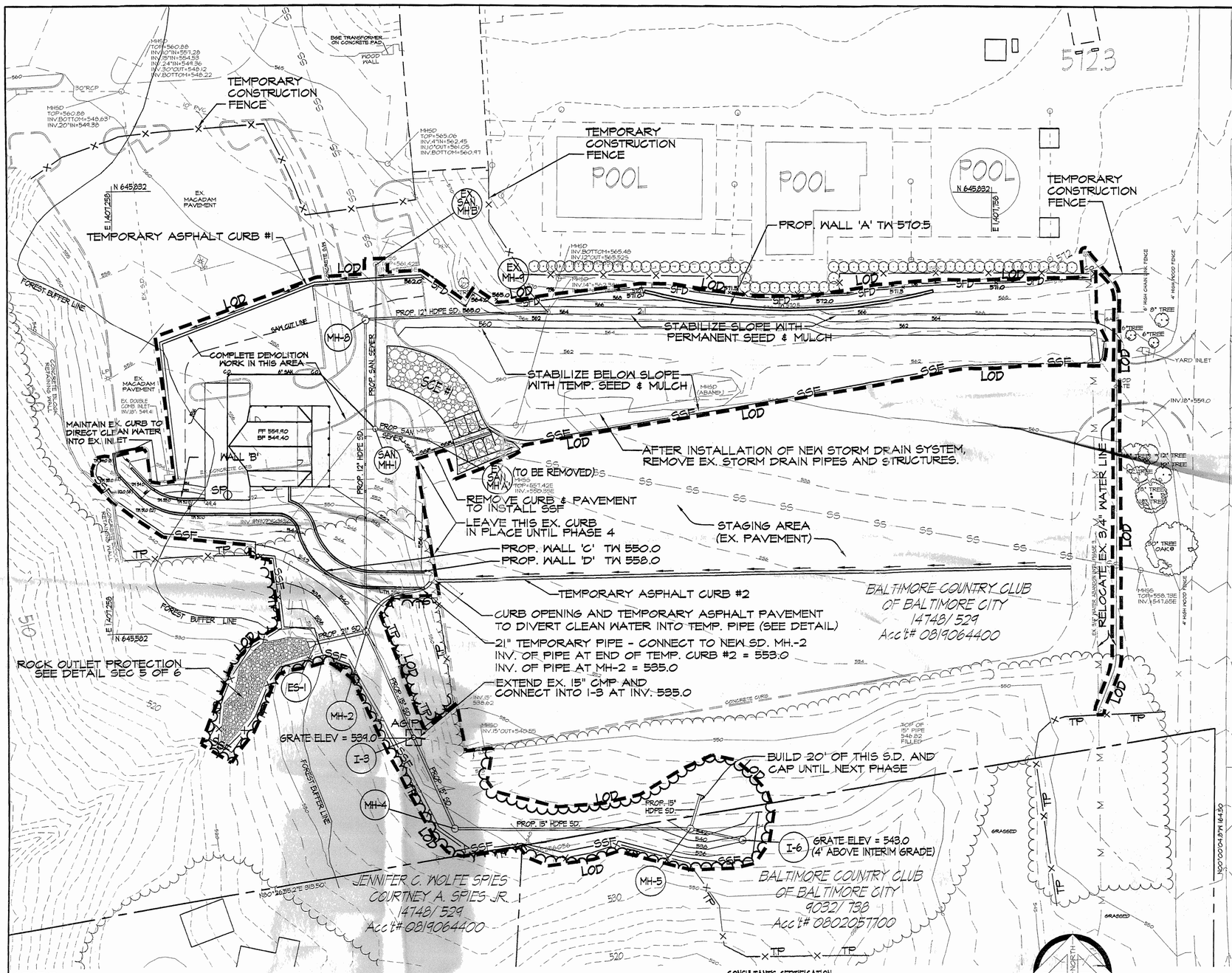
REVISIONS

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DATE:	12/24/03	SHEET	SD-5 OF SD-18

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POOL BUILDING
605.8
512.3
513.9
515.2
550.9
BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY
14748/529
Acc't# 08|9064400
TEMPORARY CONSTRUCTION FENCE
CONNECT NEW WATER, GAS, ELECTRIC & PHONE TO SERVICE TO POOL BUILDING
STAGING AREA (EX. PAVEMENT)
EX. MACADAM PAVING
EX. MACADAM PAVEMENT
POOL
N 645,832
E 1,407,150
EX. (PHASE I) SFD
EX. (PHASE I) PERMANENT SEED & MULCH
EX. (PHASE I) SCE
EX. (PHASE I) TEMP. SEED & MULCH
EX. (PHASE I) SSF
EX. WALL 'A' TW 570.5
EX. WALL 'B'
EX. WALL 'C' TW 550.0
EX. WALL 'D' TW 558.0
EX. STONE BASE
STABILIZED BUILDING AREA STONE BASE OR CONCRETE BASEMENT FLOOR
FF 554.80
BF 544.40
INLET INV=543.41
EX. (PHASE I) PERM. SEED & MULCH
EX. PHASE I RIP RAP
EX. (PHASE I) CURB OPENING AND TEMPORARY ASPHALT PAVEMENT TO DIVERT CLEAN WATER INTO TEMP. PIPE AND TO EX. M.H. #2.
EX. (PHASE I) TEMPORARY ASPHALT CURB #2
SOD & STAPLE DISTURBED AREAS AT BOTH ENDS OF PIPE
PH 2 LOD
8" PVC PIPE @ 2% INV. 547.30
(4) NDS #1215 12" SQUARE METAL GRATES @ 30' O.C. (ELEV. 550.80)
LEAVE PAVEMENT IN PLACE UNTIL WALL 'E' REACHES ELEVATION 546.0 (SEQ. NOTE # 5)
PIPE OUTLET SEDIMENT TRAP #1
SCE #1
SCE #2
TEMPORARY 15" CMP
INV. IN 553.7
INV. OUT 553.5
PROP. PHASE 2 SSF (CONNECT TO EX. PHASE I SSF)
PHASE 2
PHASE 1
WALL 'E'
EX. (PHASE I) SSF
JENNIFER C. WOLFE SPIES
COURTNEY A. SPIES JR.
14748/529
Acc't# 08|9064400
BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY
9032/738
Acc't# 0802057100
MAYS CHAPEL ROAD
(COUNTY CLAIMS 40' WIDE)
FOREST BUFFER LINE
N80°26'59.2"E 819.50'
N00°00'04"W 164.50'
A-3
EX. MH-1
EX. MH-2
EX. MH-3
EX. MH-4
EX. MH-5
EX. MH-6
EX. I-3
EX. I-6
EX. ES-1
PROP. I-7
EX. SAN. MH-8
EX. SAN. MH
EX. 12" SD
EX. 21" SD
EX. 15" SD
EX. 18" SD
EX. 24" SD
EX. 6" WATER
EX. 8" SAN. SEWER
EX. 4" HIGH CHAIN LINK FENCE
EX. 6' HIGH WOOD FENCE
EX. CONCRETE BLOCK RETAINING WALL
EX. CONCRETE RETAINING WALL
WOOD WALL
WOOD GATE
METAL SHED
GRASSED
TOP OF 15" PIPE 552.2 FILLED
EX. 15' SD
EX. 8" SAN. SEWER
EX. 6" WATER
EX. 4" HIGH WOOD FENCE
EX. 8" TREE
EX. 6" TREE
EX. 12" TREE
EX. 18" TREE
EX. 30" TREE OAK
EX. 36" TREE OAK
EX. 24" TREE OAK
EX. 42" TREE OAK
EX. 48" TREE OAK
EX. 54" TREE OAK
EX. 60" TREE OAK
EX. 66" TREE OAK
EX. 72" TREE OAK
EX. 78" TREE OAK
EX. 84" TREE OAK
EX. 90" TREE OAK
EX. 96" TREE OAK
EX.



UTILITY NOTE

A) Contractor should open only that section of trench that can be backfilled and stabilized each day. If trench must remain open longer than one day, silt fence shall be placed below (downslope) the trench.

B) Place all excavated material on uphill side of trench.

C) Any sediment control disturbed by utility construction is to be repaired immediately.

INLET PROTECTION NOTE

The contractor is required to install inlet protection on all storm drain inlets with the exception of the following:

*1) Any inlet outfalling directly into a sediment trapping device.

2) Inlets on private or public paved roadways open to the public.

All inlet protection will be installed as directed by the inspector in accordance with the 1994 Maryland Standards and Specifications for Soil Erosion and Sediment Control (See Pages E-8-1 through E-8-30) Pages E-16-5, 5A, 5B and 5C (or as may be amended). The removal of any inlet protection devices will require approval from the inspector.

*Storm Drains to be flushed prior to trapping device removal.

SEDIMENT CONTROL TRAFFIC NOTE

Any travel lane closed before 9:00 AM or after 3:30 PM, must be approved by the Baltimore County Division of Traffic Engineering at (410) 887-3554.

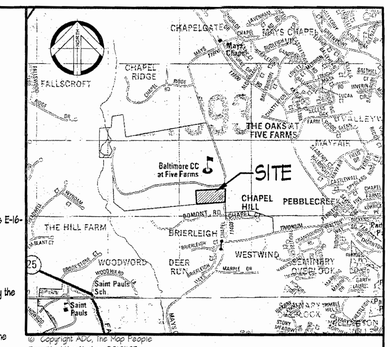
BALTIMORE COUNTY STANDARD NOTES

The proposed grading shown on this plan meets the requirements set forth by the Baltimore County Department of Environmental Protection and Resource Management and complies with Title 14, Article VI of the Baltimore County Code. However, due to building types and layout, some field adjustments may be required. All changes must comply with the above mentioned requirements.

All swales have been designed to convey runoff according to Baltimore County Department of Public Works design standards

Earthwork*:
Total cut: 6,000 CY
Total fill: 6,000 CY

*This information is not for bid purposes, but is an estimate to be used exclusively by governmental agencies reviewing this plan. Excess cut, if any, will be hauled off-site to a site with an approved grading and sediment & erosion control plan and with an open grading permit."



VICINITY MAP

1"=2000'

BENCHMARKS:

BCO # 418	N 634,023.18	E 1,405,063.54	ELEV. 329.95
5/8" REBAR GREENSPRING VALLEY RD. @ FALLS RD.			
NGS PARKS	N 652,786.92	E 1,404,301.21	ELEV. 656.44
STANDARD CONCRETE MONUMENT NDS @ NORTH SIDE OF BROADWAY-TEXAS ROAD.			

NAD83/91 & NAVD88 IN USE.

SEQUENCE OF OPERATIONS

BEFORE PHASE I

Before beginning work that requires a grading permit, Contractor shall move trees to be transplanted and light poles to be salvaged, owner shall relocate existing chain link fence and shall install temporary construction fence. Owner shall have BGE remove poles. See Demolition Plan for additional information.

PHASE I BUILDING & UTILITIES

1. Notify Baltimore County Department of Environmental Protection and Resource Management, Inspection and Enforcement Division (DEPRM-IED) at 410-887-3226 at least 48 hours before start of work. Notify Miss Utility at 1-800-257-7777 at least 48 hours prior to beginning work.
2. If applicable, orange high visibility fence shall be manually installed along the limit of disturbance, where the limit is within 50 feet of the forest buffer / conservation easement. This shall be completed and inspected at the pre-construction meeting. Install tree protection fence prior to installing any erosion and sediment control devices.
3. Clear and grub the minimum area necessary to install stabilized construction entrance #1, silt fence, super silt fence, super fence diversion, and temporary asphalt curb #1. Install said sediment control measures.
4. Notify Baltimore County Department of Environment Protection and Resource Management, Inspection and Enforcement Division, upon completion of said installation.
5. With the approval of Baltimore County Department of Environmental Protection and Resource Management, and the sediment control inspector, clear and grub remainder of site.
6. Clear for and grade only as necessary to install new sanitary sewer and new storm drain system. Install said utilities and at-grade inlet protection (A.G.I.P.) for inlet I-3. Relocate 3/4" water line.
7. Clear and grub, remaining portions of phase I L.O.D. Strip topsoil and stockpile.
8. Construct retaining wall 'C', backfilling with excavation from building. Construct building foundation and stabilize basement floor as soon as possible. Install sump pit in basement and behind retaining wall as required to dewater.
9. Install proposed water and sewer and utilities.
10. Construct and backfill walls 'A', 'B', 'D', leaving rough grade 1' below wall height. Stabilize the area between wall 'D' and wall 'C' with graded aggregate stone base, and stabilize the area above wall 'D' with temporary seed.
11. Install 12" HDPE temporary pipe to SD MH-2 and pave with asphalt the area around the intake of the pipe. Install temporary asphalt curb #2 as required to direct clean water to temporary inlet.
12. Fine grade and apply permanent seed and mulch to the areas below wall 'D', along storm drain construction and slope below wall 'A'. Apply temporary seed and mulch to all disturbed areas not otherwise stabilized.

With permission of the sediment control inspector, proceed to phase 2.

SEC I OF 7

The limit of disturbance (L.O.D.) coincides or is inside all property lines. The contractor shall verify property lines before staking out the L.O.D.

PHASE I LOD = 67,600 SF. = 1.6 AC.
TOTAL DISTURBED AREA = 165,530 SF. = 3.8 AC.

General Site Data Notes

1. Owner / Developer: Baltimore Country Club of Baltimore City, 4712 Club Road, Baltimore, Maryland 21210
2. Property Location: 11500 Mays Chapel Road, Timonium, Maryland 21093. Deed Reference: 5921/ 324
3. Property Area: 271 +/- acres
4. Existing Zoning: RC5
5. Existing Use: Country Club
6. Proposed Development: Tennis Facility

LEGEND

- PROPERTY LINE
- EXISTING CONTOURS (560 / 558)
- PROPOSED CONTOURS (560 / 558)
- EXISTING TREELINE
- PROPOSED TREELINE
- EXISTING CURB
- PROPOSED CURB
- EX. S.D.
- PROP. 24" S.D.
- EXISTING SANITARY SEWER (S)
- PROP. SAN.
- PROPOSED SANITARY SEWER
- EX. W. / EXISTING WATER & FIRE HYDRANT
- PROP. W.
- PROPOSED WATER
- EXISTING BUILDINGS
- SP SUMP PIT
- PROPOSED BUILDINGS
- SCE STABILIZED CONSTRUCTION ENTRANCE WITH MOUNTABLE BERM
- AGIP AT GRADE INLET PROTECTION
- SFD SUPER FENCE DIVERSION
- SF SILT FENCE
- LOD LIMIT OF DISTURBANCE
- SSF SUPER SILT FENCE
- TP TREE PROTECTION FENCE
- TEMPORARY ASPHALT CURB

CONSULTANT'S CERTIFICATION

I do hereby certify that this plan for erosion and sediment control represents a practical and workable plan based upon personal knowledge of the site conditions and that it was prepared in accordance with the requirements of the Baltimore County Soil Conservation District and the current State of Maryland Specification for Soil Erosion and Sediment Control. I have reviewed this erosion and sediment control plan with the owner/developer.

Signature _____ Date _____

Print Name _____ MD License Number _____

SITE RESOURCES, INC. 14307 Jarrettsville Pike, Phoenix, MD 21131

OWNER'S/DEVELOPER'S CERTIFICATION

"I/We do hereby certify that any clearing, grading, construction, and /or development will be done pursuant to this approved plan and that any responsible personnel involved in the construction project will have a Certificate of Attendance at a Maryland Department of the Environment approved training program for the control of sediment and erosion before beginning the project. I/We also certify that the site will be inspected at the end of each working day and that any needed maintenance will be completed so as to insure that all sediment control practices are left in operational condition. I/We authorize the right of entry for periodic on-site evaluation by the Baltimore County Soil Conservation District Board of Supervisors or their authorized agents."

Signature _____ Date _____

Print Name _____ Telephone Number _____

Standard Nondisturbance Note:

"There shall be no clearing, grading, construction or disturbance of vegetation in the Forest Buffer/Forest Conservation Easement except as permitted by the Baltimore County Department of Environmental Protection and Resource Management."

TRAP/BASIN FLOW DIVERSION NOTE

To prevent slope erosion within sediment trapping devices, adequately sized and stabilized flow diversion measures (i.e. earth dike, temporary swale, perimeter dike/swale) shall be installed at the upslope extent of trap and basin storage areas to divert all flows to appropriate inflow protection devices. These measures will be located by the contractor and therefore not shown on the plan view.

TEMPORARY STOCKPILE NOTE

Temporary stockpiles shall be located within the limit of disturbance, drain to a functioning sediment control device, and positioned so as not to impede upon or impair the function of said device. The stockpile shall not alter the drainage divide.

Note: Storm Water Management has been previously provided and approved for the site by DMA Project # 82082M1, June 1996

Phase I Sediment & Erosion Control Plan

Baltimore Country Club Tennis Facility

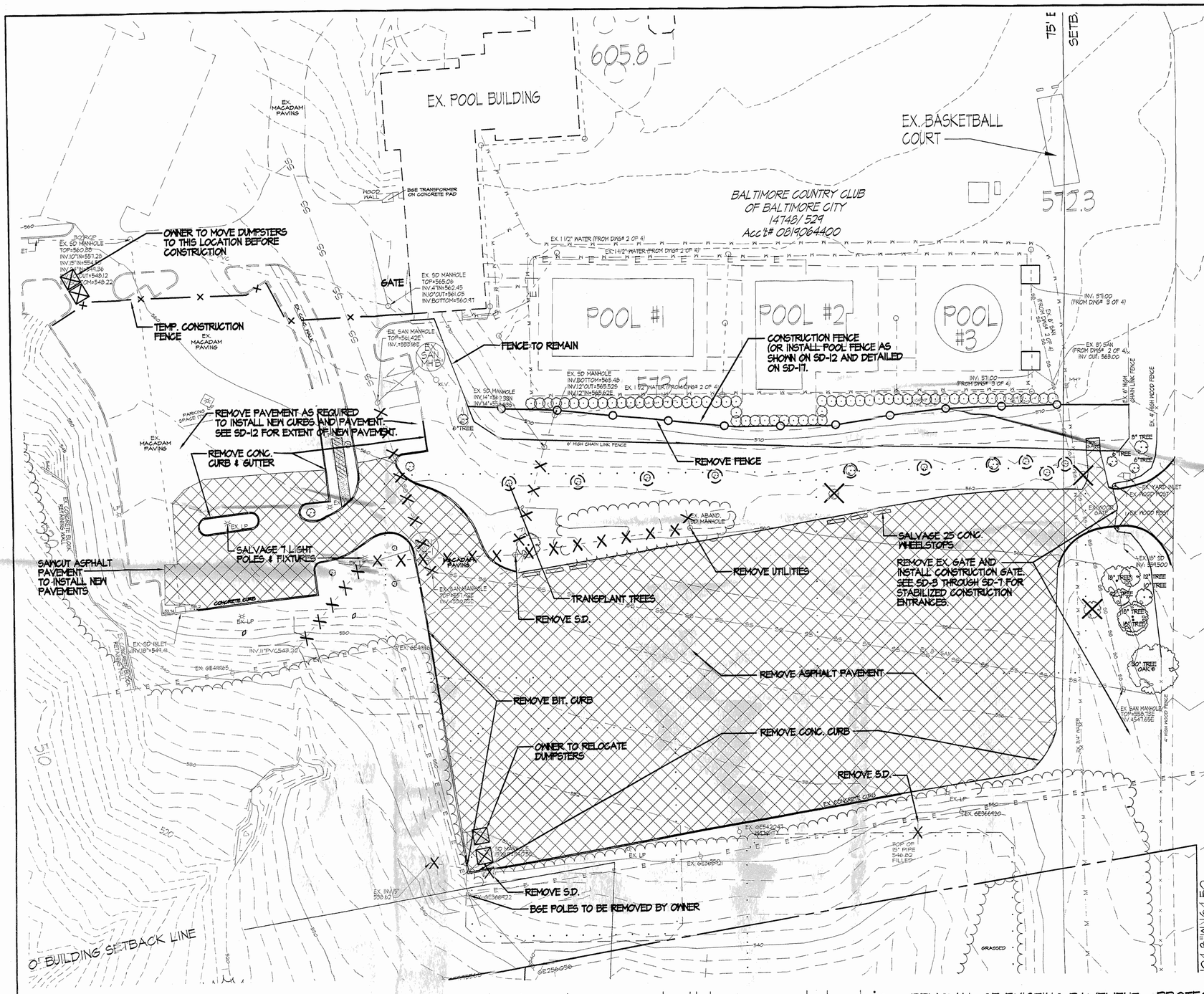
BALTIMORE COUNTY, MD

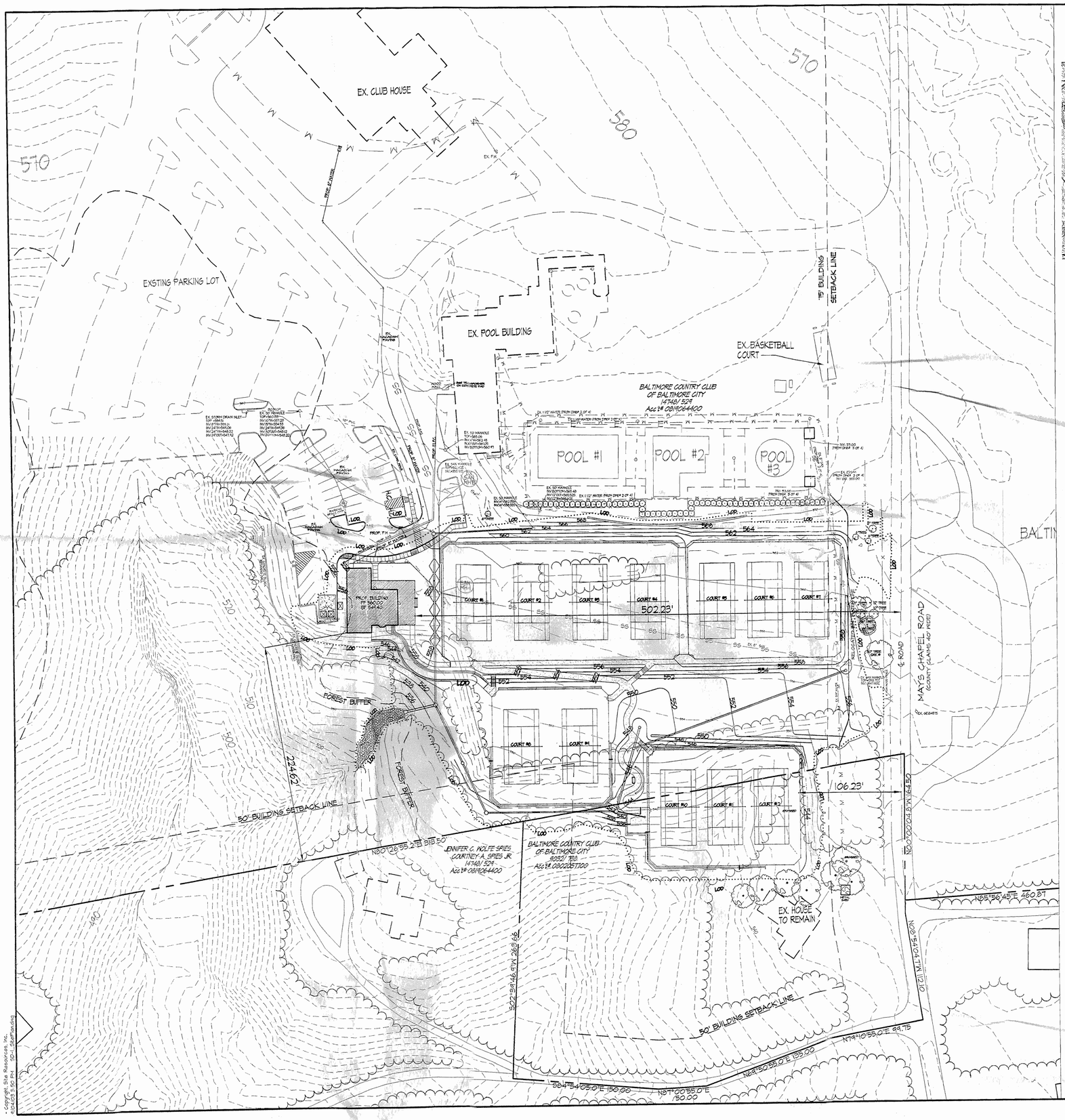
REVISIONS

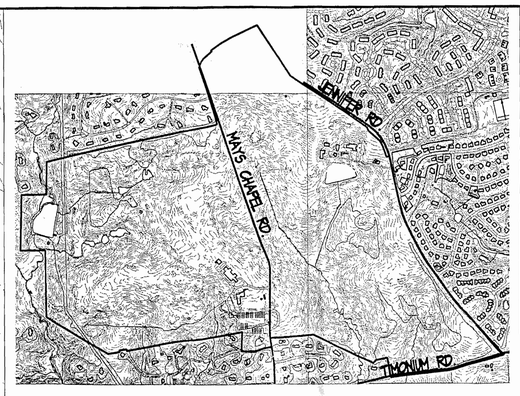
SITE RESOURCES incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	MAS	CONTRACT NO.:	
DESIGNED BY:	JGT	SCALE:	1" = 30'
CHECKED BY:	JLS	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-3 OF SD-18

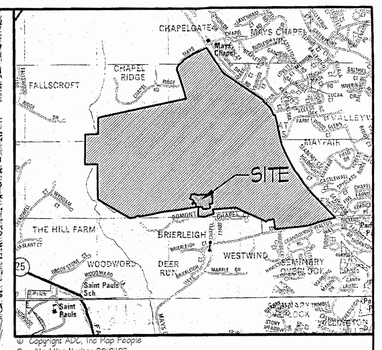
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EX. POOL BUILDING
605.8
EX. BASKETBALL COURT
572.3
BALTIMORE COUNTRY CLUB
OF BALTIMORE CITY
14748/529
Acc't# 0819064400
POOL #1
POOL #2
POOL #3
75' BUILDING SETBACK LINE
MAYS CHAPEL ROAD
(COUNTY CLAIMS 40' WIDE)
OWNER TO MOVE DUMPSTERS TO THIS LOCATION BEFORE CONSTRUCTION
TEMP. CONSTRUCTION FENCE
FENCE TO REMAIN
CONSTRUCTION FENCE (OR INSTALL POOL FENCE AS SHOWN ON SD-12 AND DETAILED ON SD-17.
REMOVE PAVEMENT AS REQUIRED TO INSTALL NEW CURBS AND PAVEMENT. SEE SD-12 FOR EXTENT OF NEW PAVEMENT.
REMOVE CONC. CURB & GUTTER
SAWCUT ASPHALT PAVEMENT TO INSTALL NEW PAVEMENTS
SALVAGE 7 LIGHT POLES & FIXTURES
REMOVE FENCE
REMOVE UTILITIES
TRANSPLANT TREES
REMOVE S.D.
SALVAGE 25 CONC. WHEELSTOPS
REMOVE EX. GATE AND INSTALL CONSTRUCTION GATE. SEE SD-5 THROUGH SD-7 FOR STABILIZED CONSTRUCTION ENTRANCES.
REMOVE ASPHALT PAVEMENT
REMOVE BIT. CURB
REMOVE CONC. CURB
OWNER TO RELOCATE DUMPSTERS
REMOVE S.D.
REMOVE S.D.
BGE POLES TO BE REMOVED BY OWNER
BUILDING SETBACK LINE
GATE
EX. MACADAM PAVING
EX. CONCRETE BLOCK RETAINING WALL
EX. 6' HIGH CHAIN LINK FENCE
EX. 4' HIGH HOOD FENCE
EX. YARD INLET
EX. WOOD POST
EX. WOOD GATE
EX. ABAND. SD MANHOLE
EX. SAN MANHOLE TOP=568.73E INV.=547.65E
EX. SD MANHOLE TOP=565.06 INV.4"IN=562.45 INV.10"OUT=561.05 INV.BOTTOM=560.97
EX. SAN MANHOLE TOP=564.42E INV.=559.16E
EX. SD MANHOLE INV.BOTTOM=565.48 INV.12"OUT=565.52E INV.12"IN=565.62E
EX. SD MANHOLE INV.14"=559.19N INV.14"=559.29S
EX. SD MANHOLE TOP=560.88 INV.10"IN=551.29 INV.15"IN=554.63 INV.=548.36 OUT=548.12 COM=548.22
EX. SD INLET INV.18"=544.41
EX. SAN MANHOLE TOP=557.42E INV.=550.70E
EX. SD MANHOLE TOP=560.42 INV.=550.55
EX. 1 1/2" WATER (FROM DWG# 2 OF 4)
EX. 1-1/2" WATER (FROM DWG# 2 OF 4)
EX. 8" SAN (FROM DWG# 2 OF 4) INV OUT=563.00
INV. 571.00 (FROM DWG# 3 OF 4)
EX. 16" SD INV.=554.50S
EX. 48" TREE
EX. 102" TREE
EX. 42" TREE
EX. 18" TREE
EX. 30" TREE
EX. 30" TREE OAK
EX. 8" TREE
EX. 6" TREE
EX. 12" TREE
EX. 24" TREE
EX. 36" TREE
EX. 6" TREE
EX. 6" TREE
EX. 6





OVERALL SITE
SCALE: 1"=1000'



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Permitted Use Number 20101101

VICINITY MAP 1"=2000'

BCC #13(A-R)

NOTES

1. Property Owners: Baltimore Country Club of Baltimore City
   Mailing Address
   4712 Club Road
   Baltimore, MD 21210
   Site Address
   11500 Mays Chapel Road
   Timonium, MD 21093
2. Site Data: Site Area: 271 Ac +/-
   Tax Map 60, Grid 9, Parcel 38,
   Tax Acct. No.: 0802001650 & 0802057100
   Deed Reference: 542/ 324 & 9032/ 138
   Zoning : RC-5
   Zoning Map : NW 13 C & 14 C
   Election District: 8
   Councilmanic District: 2
3. Existing Use: Country Club
4. Proposed Use: Country Club
5. Proposed Improvements:
   - 12 Har-Tru Tennis Courts
   - 2698 SF Tennis Building with walk out basement
6. This development was given as A-7 exemption by the D.R.C. on July 6, 1992.

This plan is for zoning and permit purposes only. See other site drawings for clearing, grading, sediment control, layout, utilities and other site improvments.

LEGEND

- PROPERTY LINE
- EXISTING BUILDINGS
- 560 / 558 EXISTING CONTOURS
- EXISTING FENCE
- EXISTING CURB
- EXISTING EDGE OF PAVEMENT
- EXISTING SIDEWALK
- EXISTING RETAINING WALL
- E E E EXISTING ELECTRIC
- EX. SAN. EXISTING SANITARY SEWER
- EX. S.D. EXISTING STORMDRAIN
- EX. W. EXISTING WATER & FIRE HYDRANT
- EXISTING WOODS LINE
- EXISTING TREE TO REMAIN
- PROPOSED BUILDING
- 560 / 558 PROPOSED CONTOURS
- PROPOSED FENCE
- PROPOSED CURB
- PROPOSED SIDEWALK
- PROPOSED RETAINING WALL
- PROP. SAN. PROPOSED SANITARY SEWER
- PROP. S.D. PROPOSED STORMDRAIN
- PROP. W. PROPOSED WATER & FIRE HYDRANT
- PROPOSED WOODS LINE

NORTH

Site Plan to Accompany Building Permit Application

Baltimore Country Club Tennis Facility

BALTIMORE COUNTY, MD

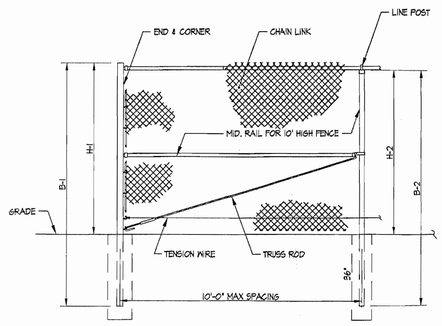
REVISIONS

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DESIGNED BY:	JGT	SCALE:	1" = 50'
CHECKED BY:	JGT	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-1 OF SD-18

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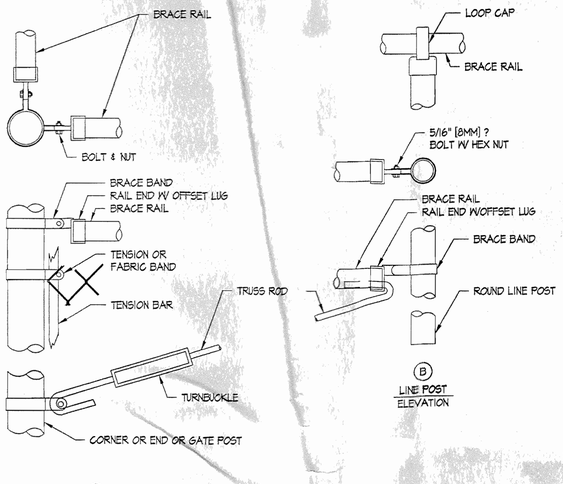
Rec 13



FENCE SECTION ELEVATION
WITH TOP RAIL

FENCE HEIGHT	END & CORNER POSTS		LINE POSTS	
NOMINAL HEIGHT	B-1 BAR LENGTH	H-1 HEIGHT ABOVE GRADE	B-2 BAR LENGTH	H-2 HEIGHT ABOVE GRADE
5'-6"				
10'-0"	13'-0"	10'-0 5/8"	12'-8"	9'-8 7/8"

NOTES:
1. THIS DWG CORRESPONDS WITH DWGS I-1010, I-1030, I-1110 & I-1130.
2. SPECIFICATIONS SHOWN CAN BE CHANGED BY MASTER-HALCO ONLY.

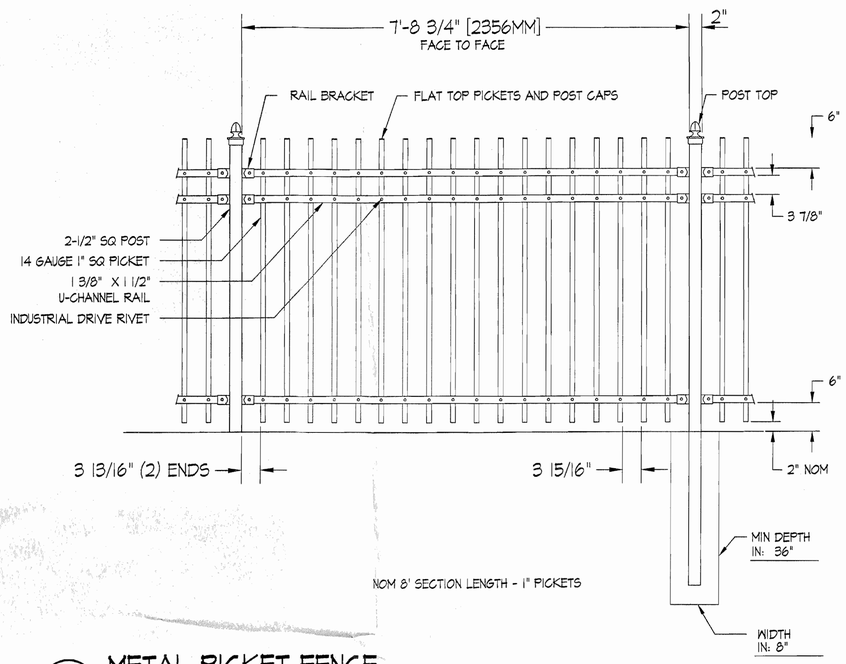


A
END, CORNER, OR GATE POST
ELEVATION

ROUND TERMINAL POSTS

B
LINE POST
ELEVATION

NOTES:
1. ALL MATERIAL TO CONFORM TO FEDERAL SPEC RR-F-1916 (1-25-74).
2. ALL GALVANIZED FITTINGS TO CONFORM TO ASTM-A153.
3. THIS DWG CORRESPONDS WITH DWGS I-1110, I-1120, I-1130 & I-1140.



NOM 8' SECTION LENGTH - 1" PICKETS

11 METAL PICKET FENCE

SCALE: 1/2" = 1'-0"

MONUMENTAL IRON WORKS ESTATE FENCE, STYLE 'L', 4' HIGH (OR APPROVED EQUAL)
NOM 8' SECTION LENGTH - 1" SQUARE PICKETS

10 DETAILS FOR CHAIN LINK FENCE AROUND TENNIS COURTS

NOT TO SCALE

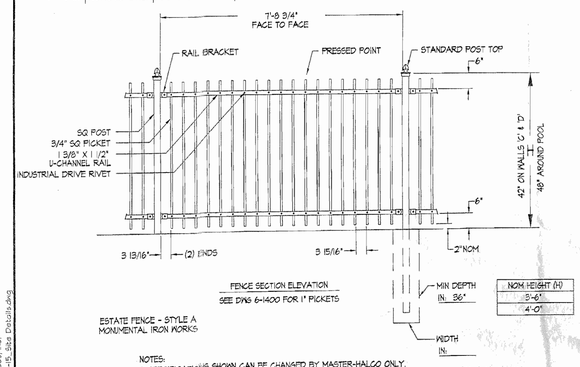
FENCING FOR POOL & WALLS 'C' & 'D'

BASE BID: (FOR POOL FENCE)
As part of the base bid, the contractor shall include a price to install a 48" high, black vinyl chain link fence. Line posts shall be 1 5/8" diameter; end & corner posts shall 2" diameter. All posts shall have powder coated finish. Posts shall be spaced @ 10' o.c., set in a concrete footer 36" deep x 8" diameter. Fabric shall be 2"x 2", 9 guage, with .148 core-bonded black vinyl. There shall be no rails; tension wires shall be installed top and bottom. Install twisted selvage at top of fence.

ALTERNATE #4 (FOR POOL FENCE)
In addition to the base bid price, the contractor shall include in its bid proposal a price for ALTERNATE #4. The price shall equal the additional cost over and above the base bid (based on substituing the alternate fence for the chain link fence). ALTERNATE 4: 48" high metal picket fence as detailed.

LAYOUT AND ELEVATION OF FENCING:

BEFORE BEGINNING INSTALLATION OF THE FENCE, the conctractor shall stake out the proposed fence lines and set a string line showing the height of the fence. The top of fence shall not follow the undulations of the grade, but shall follow a straight line; where changes in horizontal or vertical alignment are required, they shall be gradual and equally spaced between adjoining sections of fence. Stake-out is subject to approval by Site Resources, Inc. before construction. All pickets and posts shall be plumb.



NOM HEIGHT (H)
3'-6"
4'-0"

FENCE SECTION ELEVATION
SEE DWG 6-1400 FOR 1" PICKETS

ESTATE FENCE - STYLE A
MONUMENTAL IRON WORKS

NOTES:
1. SPECIFICATIONS SHOWN CAN BE CHANGED BY MASTER-HALCO ONLY.
2. FOOTING WIDTH TO BE (4)X POST WIDTH.

GUARD ON WALLS 'C' AND 'D' - 42" HIGH FENCE
POOL FENCE ALTERNATE #4 - 4' HIGH FENCE

Fence Details & Notes

Baltimore Country Club
Tennis Facility
BALTIMORE COUNTY, MD
REVISIONS

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

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DESIGNED BY:	SRI	SCALE:	AS SHOWN
CHECKED BY:	SRI	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-18 OF SD-18

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11/26/03 9:00 AM SD-15, Site Details.dwg

20040508 "A"

AND

20040600

COMM EXHIBITS

(5)

Baltimore County Circuit Court
6-15-05
6-16-05

Verified 6-16-05
Verified 6-21-05

Verified 9-08-05

Community Exhibits

OH-508-SPH
and
04-600-SPH

Community 1 ✓ Site Plan 12/24/03

Community 2 ✓ Site Plan to Accompany Special Hearing July 16, 1992

Community 3 ✓ ZC Order 93-37-SPH (~~missing from file~~) [redacted]

Community 4 ✓ Site Plan for Sp. Ex 1993

Community 5 ✓ Case No. 93-388-X with Restrictive Covenants/Agreement

6 ✓ ~~Site Plan~~ Drainage Map May 1996

7 ✓ ZC Decision 97-384-SPH

8 ✓ Drainage MAP found - DEPRM files dated Oct 2002

9 ✓ Letter March 2003 to Gill

10 ✓ Pedersen Howell & Heather March 1964

11 Early ✓ Letters to BAC

11 ✓ Memo to Jablon from McDaniel Dated 10/28/92

12 ✓ Case File 93-37-SPH (~~missing~~) Could ~~not be located in~~ PDM

from PDM 7/28/05

Verified 6-21-05

Community Exhibits

Ex 28 Aerial with Bldgs & Rd. 1964 (Same as 15C)

Ex 29 Aerial with Total Sq. Ft.

Ex 30 Document - Rinehart, Feb 1995

Ex 31 Topographic Map from GIS

Ex 32 Jack Dillon CV

Ex 33 Aerial Photo of Bement & BCC 2002

Ex 34 - Portion of Aerial shows pool pinky

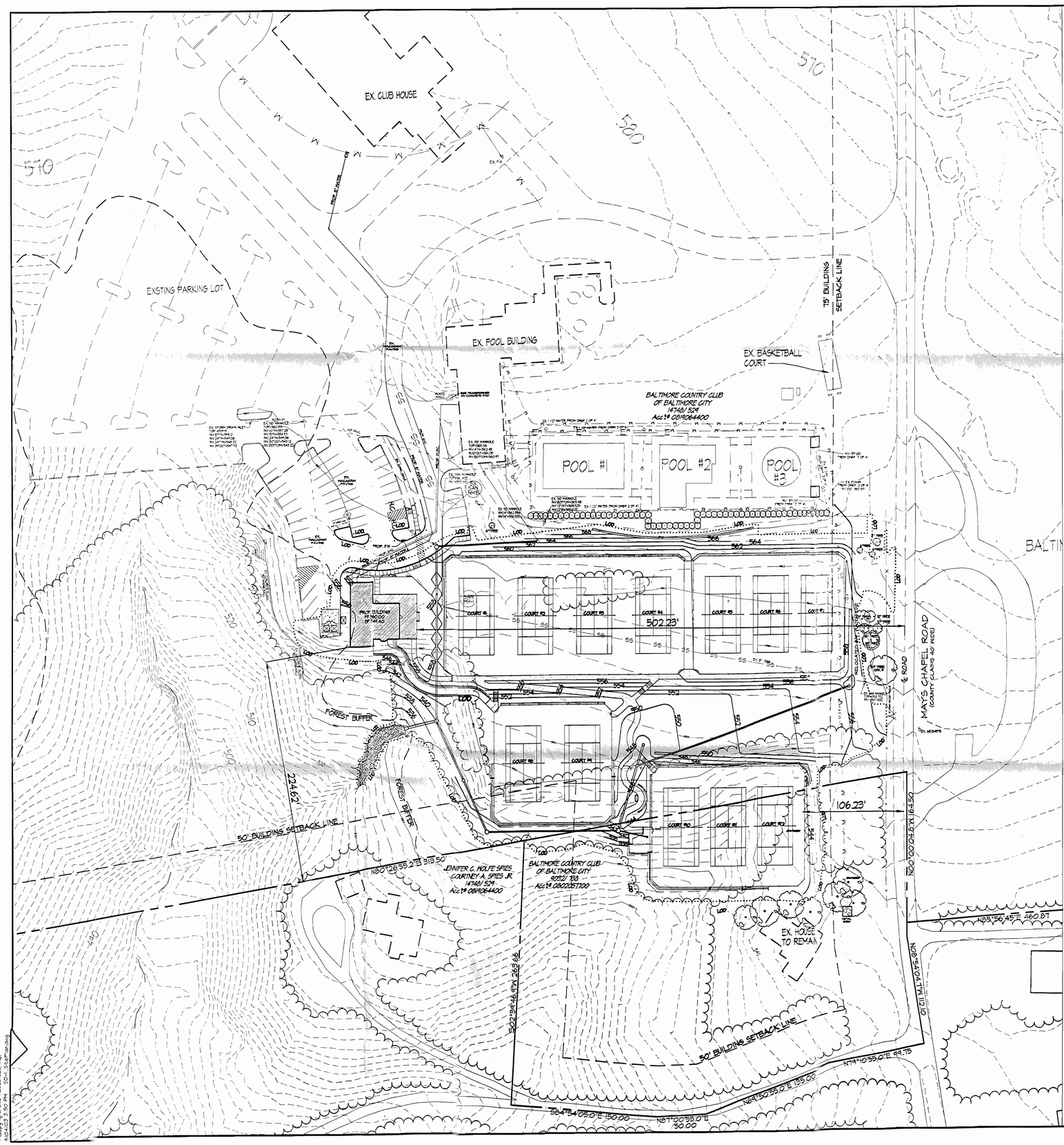
Ex 35 Aerial - B/W

Ex 36 SDAT Document

Ex 37 Aerial with Plan imposed - SPX.

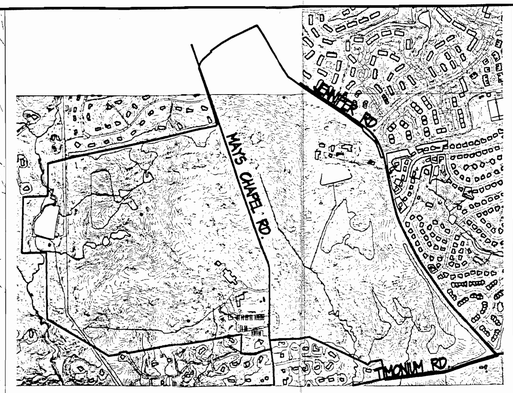
Ex 38 Aerial with 12/24/03 Plan imposed

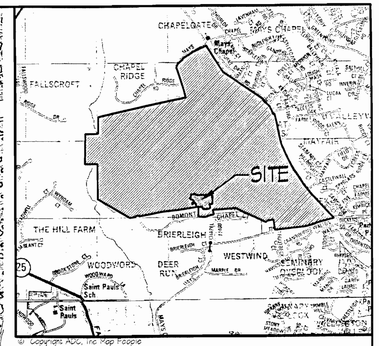
Ex 39 Aerial with Drainage Map 10/31/02 imposed



OVERALL SITE

SCALE: 1"=1000'





VICINITY MAP

1"=2000'

NOTES

1. Property Owners: Baltimore Country Club of Baltimore City
   Mailing Address
   4712 Club Road
   Baltimore, MD 21210
   Site Address
   11500 Mays Chapel Road
   Timonium, MD 21093
2. Site Data: Site Area: 271 Ac +/-
   Tax Map 60, Grid 3, Parcel 38,
   Tax Acct. No.: 0802001650 & 0802057100
   Deed Reference: 542/ 324 & 9032/ 138
   Zoning : RC-5
   Zoning Map : NW 13 C & 14 C
   Election District: 8
   Councilmanic District: 2
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4. Proposed Use: Country Club
5. Proposed Improvements:
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   - 2698 SF Tennis Building with walk out basement
6. This development was given as A-7 exemption by the D.R.C. on July 6, 1992.

This plan is for zoning and permit purposes only. See other site drawings for clearing, grading, sediment control, layout, utilities and other site improvments.

LEGEND

- PROPERTY LINE
- EXISTING BUILDINGS
- 560 / 558 EXISTING CONTOURS
- EXISTING FENCE
- EXISTING CURB
- EXISTING EDGE OF PAVEMENT
- EXISTING SIDEWALK
- EXISTING RETAINING WALL
- E E E EXISTING ELECTRIC
- EX. SAN. EXISTING SANITARY SEWER
- EX. S.D. EXISTING STORMDRAIN
- EX. W. EXISTING WATER & FIRE HYDRANT
- EXISTING WOODS LINE
- EXISTING TREE TO REMAIN
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- PROP. W. PROPOSED WATER & FIRE HYDRANT
- PROPOSED WOODS LINE

NORTH

Site Plan to Accompany
Building Permit Application

Baltimore Country Club
Tennis Facility

BALTIMORE COUNTY, MD

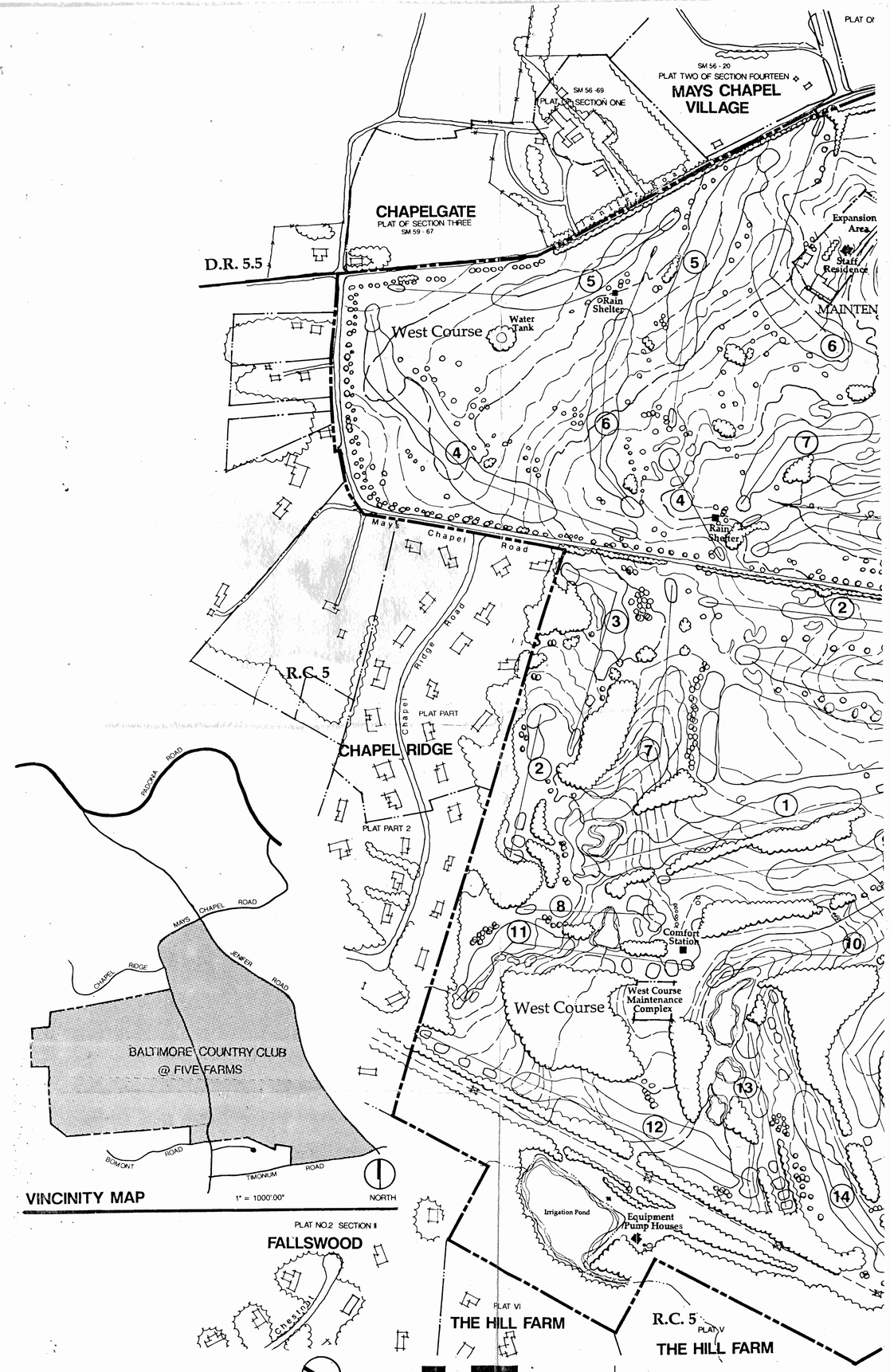
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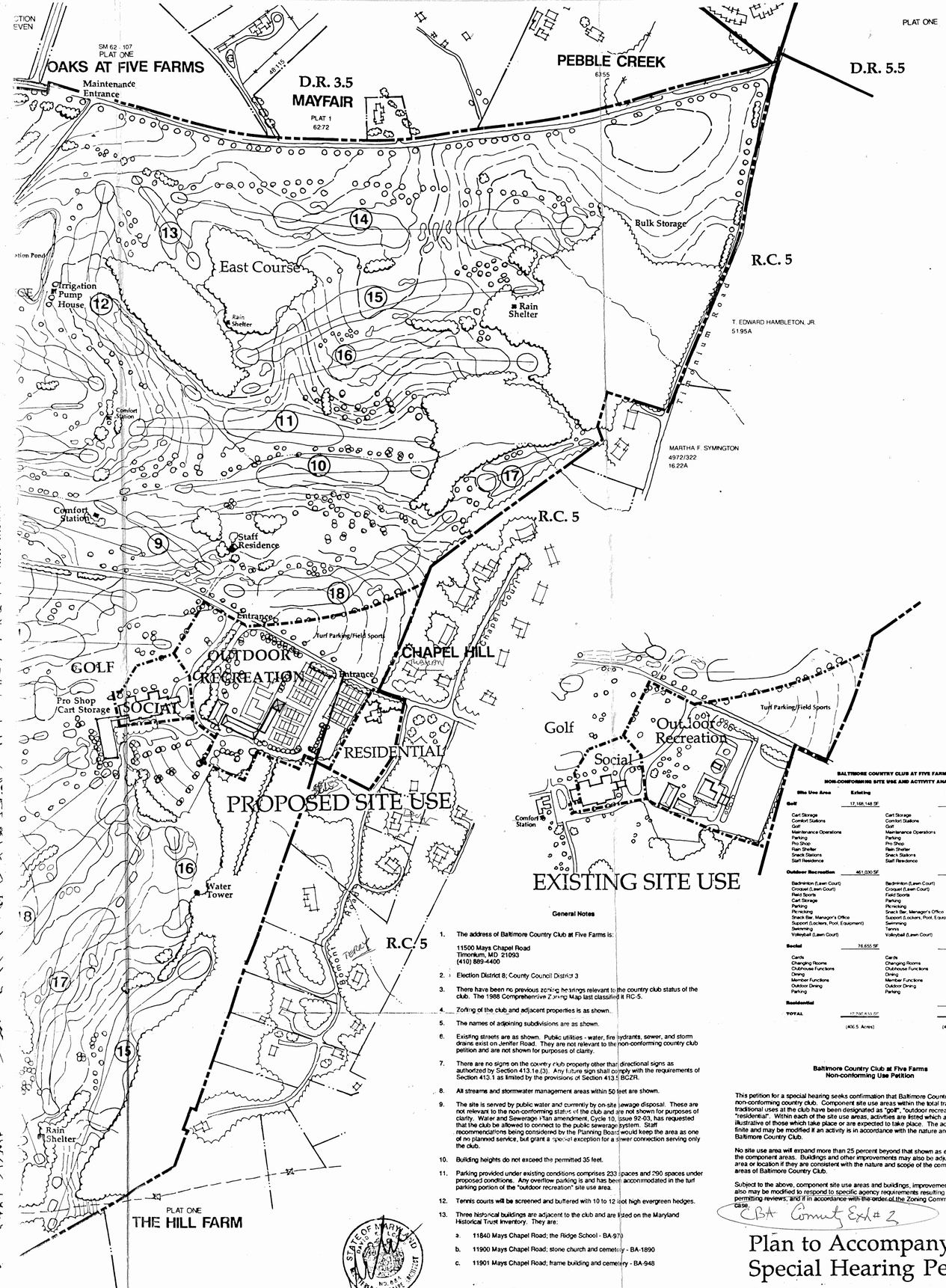
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DESIGNED BY:	JGT	SCALE:	1" = 50'
CHECKED BY:	JGT	SRI PROJECT NO:	02144
DATE:	12/24/03	SHEET	SD-1 OF SD-18

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Comm. Exh #1



Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue Towson, MD 21204



BALTIMORE COUNTRY CLUB AT FIVE FARMS
NON-CONFORMING SITE USE AND ACTIVITY ANALYSIS

Site Use Area	Existing	Proposed	Percent Change
Golf	17,168,148 SF	17,100,964 SF	-0.4%
	Cart Storage Comfort Stations Golf Maintenance Operations Parking Pro Shop Rain Shelter Snack Stations Staff Residence	Cart Storage Comfort Stations Golf Maintenance Operations Parking Pro Shop Rain Shelter Snack Stations Staff Residence	
Outdoor Recreation	461,030 SF	542,100 SF	+17.6%
	Badminton (Lawn Court) Croquet (Lawn Court) Field Sports Cart Storage Parking Picnicking Snack Bar, Manager's Office Support (Lockers, Pool, Equipment) Swimming Volleyball (Lawn Court)	Badminton (Lawn Court) Croquet (Lawn Court) Field Sports Cart Storage Parking Picnicking Snack Bar, Manager's Office Support (Lockers, Pool, Equipment) Swimming Tennis Volleyball (Lawn Court)	
Social	76,655 SF	81,720 SF	+6.6%
	Cards Changing Rooms Clubhouse Functions Dining Member Functions Outdoor Dining Parking	Cards Changing Rooms Clubhouse Functions Dining Member Functions Outdoor Dining Parking	
Residential		94,305 SF	N/A
TOTAL	17,707,833 SF (406.5 Acres)	17,819,089 SF (409.1 Acres)	+0.6%

General Notes

1. The address of Baltimore Country Club at Five Farms is:
   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400
2. Election District 8; County Council District 3
3. There have been no previous zoning hearings relevant to the country club status of the club. The 1988 Comprehensive Zoning Map last classified it RC-5.
4. Zoning of the club and adjacent properties is as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to the non-conforming country club petition and are not shown for purposes of clarity.
7. There are no signs on the country club property other than directional signs as authorized by Section 413.1.e.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
8. All streams and stormwater management areas within 50 feet are shown.
9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. Staff recommendations being considered by the Planning Board would keep the area as one of no planned service, but grant a special exception for a sewer connection serving only the club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the "outdoor recreation" site use area.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:
    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

STATE OF MARYLAND
REGISTERED
No. 844
LANDSCAPE ARCHITECT

Baltimore Country Club at Five Farms
Non-conforming Use Petition

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid, non-conforming country club. Component site use areas within the total tract which reflect traditional uses at the club have been designated as "golf", "outdoor recreation", "social", and "residential". Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listing is not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc., also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

County Exhibit 2

Plan to Accompany 40
Special Hearing Petition

Baltimore Country Club at Five Farms

W/C

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
SW/S Jenifer Road, N/S
Timonium Road * ZONING COMMISSIONER
11500 Mays Chapel Road
8th Election District * OF BALTIMORE COUNTY
3rd Councilmanic District
*
Baltimore Country Club of * CASE # 93-37-SPH
Baltimore City
Petitioner
****

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Zoning Commissioner as a Petition for Special Hearing, for that property located in Timonium known as the Baltimore Country Club at Five Farms. As stated in the Petition, the property owner seeks approval of "an existing nonconforming country club and modifications." Clearly, the wording of the Petition is but a general statement of the relief sought by the property owner. Specifically, the Petitioner seeks legitimization of a vast tract of property as a nonconforming country club use and approval of certain modifications to said use, both within the original tract boundary and on lands more recently acquired.

The Petition was filed by the Baltimore Country Club of Baltimore City, the legal owner of the property. The Petitioner is represented by G. Scott Barhight, Esquire. Numerous witnesses appeared on behalf of the Petition. They included William P. Geary, a long time member of the Country Club and its current President. He testified extensively as to the history of the property from the time of its acquisition by the Club in the 1920s to the present. Also testifying was Paul T. Spellman, Jr., who has been employed as the General Manager and Chief Operating Officer of the Club since 1985. Mr. Spellman is the individual who is the hands-on manager of the facility and directs its day to day operation. Also testifying was Edmund Haile of Daft, McCune and Walker. Mr. Haile, a Civil Engineer, assisted in the prepa-

EXHIBIT 1

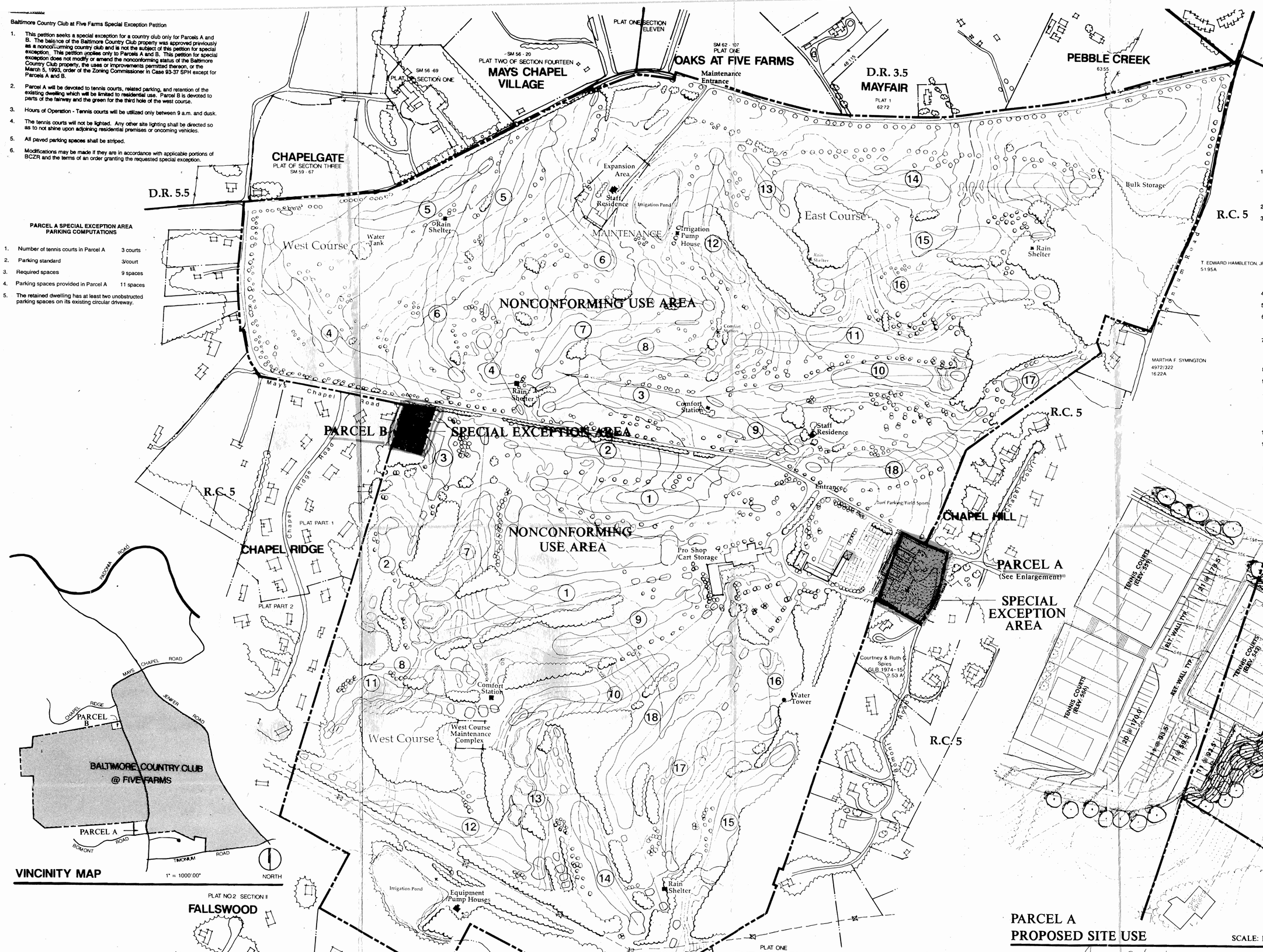
CBA Comm #3

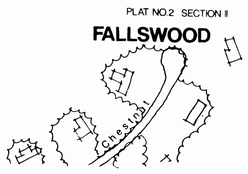
Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.
2. Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.
3. Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.
4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.
5. All paved parking spaces shall be striped.
6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

1.	Number of tennis courts in Parcel A	3 courts
2.	Parking standard	3/court
3.	Required spaces	9 spaces
4.	Parking spaces provided in Parcel A	11 spaces
5.	The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.	





General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400

2. Election District 8; County Council District 3
3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.

4. Zoning of the club and adjacent properties are as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.
7. There are no signs on the country club property other than directional signs as authorized by Section 413.1E.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
8. All streams and stormwater management areas within 50 feet are shown.
9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

PARCEL A
PROPOSED SITE USE

SCALE: 1"=50'-0"

PRINTED
JUN 11 1993

Comm. Exh # 4

Parcel A & B Plan to Accompany
Special Exception Petition

Baltimore Country Club at Five Farms

Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue Towson, MD 21286

PROJECT NO 82032.G1

MAY 3, 1993 REVISED JUNE 11, 1993

DAFT-McCUNE-WALKER, INC
DT
DD
B.A.S.

Two of Two

IN RE: PETITION FOR SPECIAL	*	BEFORE THE
EXCEPTION FOR A COUNTRY CLUB	*	ZONING COMMISSIONER
11500 Mays Chapel Road Parcel A - NWC Mays Chapel Road and Bomont Road Parcel B - W/S Mays Chapel Road, 361 feet plus or minus S/S Chapel Ridge Road Eighth Election District Third Councilmanic District	*	OF BALTIMORE COUNTY
Petitioner: Baltimore Country Club of Baltimore City	*	Case No. 93-388-X

* * * * * * * * * * * * * * *

FINDINGS OF FACTS AND
CONCLUSIONS OF LAW

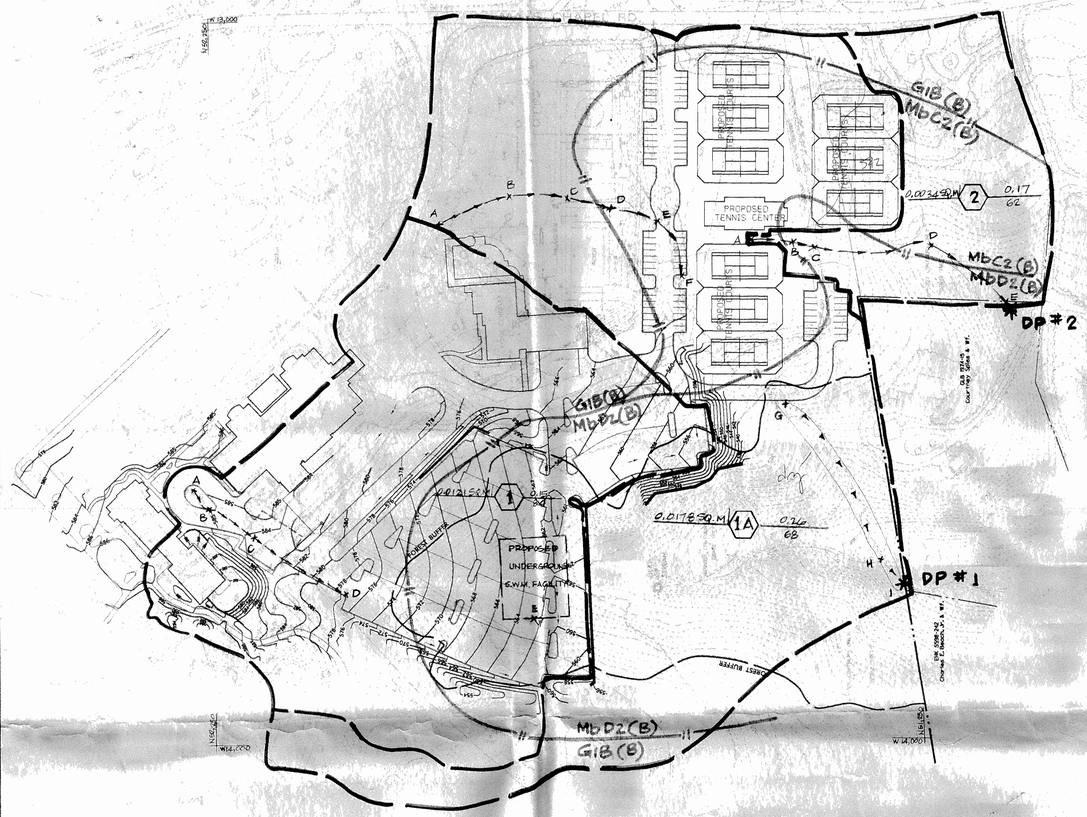
This matter comes before the Deputy Zoning Commissioner as a Petition for Special Exception for the subject parcels located at 11500 Mays Chapel Road. The Petition was filed by the property owner, Baltimore Country Club of Baltimore City, which operates a country club at this location known as Five Farms.

The Petitioner seeks approval for a country club on two parcels. In Case No. 93-37-SPH, the Zoning Commissioner of Baltimore County granted a Petition for Special Hearing confirming a nonconforming country club and modifications for those portions of the property owned by the Petitioner as of September 26, 1963. The two parcels which are the subject of this Petition for Special Exception were not owned by the Petitioner as of September 26, 1963. Therefore, Parcels A and B are not part of the nonconforming country club.

The Petitioner is represented by G. Scott Barhight, Esquire. Appearing at the hearing on behalf of the Petitioner as witnesses

Exh. 2

CBA Com. #5 A B&C



PROPOSED DRAINAGE AREA MAP

DEVELOPERS /LANDOWNERS CERTIFICATION

I/WE HEREBY CERTIFY THAT ALL PROPOSED WORK SHOWN ON THESE CONSTRUCTION DRAWING(S) AND ON THE APPROVED SEDIMENT CONTROL DRAWING(S) WILL BE ACCOMPLISHED PURSUANT TO THESE PLANS. I/WE ALSO UNDERSTAND THAT IT IS MY/OUR RESPONSIBILITY TO HAVE THE CONSTRUCTION SUPERVISED AND CERTIFIED, INCLUDING THE SUBMITTAL OF "AS-BUILT" PLANS WITHIN THIRTY (30) DAYS OF COMPLETION, BY A REGISTERED PROFESSIONAL ENGINEER.

SIGNED _____

PRINT Paul T. Spillan, Jr. DATE 7/12/96

ENGINEERS CERTIFICATION

I HEREBY CERTIFY THAT THIS PLAN HAS BEEN PREPARED BY ME OR UNDER MY SUPERVISION AND MEETS THE MINIMUM STANDARDS OF THE BALTIMORE COUNTY DEPARTMENT OF PUBLIC WORKS AND THE BALTIMORE COUNTY SOIL CONSERVATION DISTRICT.

SIGNED _____ P.E. 6872

PRINT MAX KANTZER DATE 6-13-96

CONTRACTORS "AS-BUILT" NOTE

AS-BUILT PLANS AND CERTIFICATION ARE REQUIRED FOR THIS STORMWATER MANAGEMENT FACILITY. THESE MUST BE PREPARED AND SEALED BY A REGISTERED PROFESSIONAL ENGINEER. BALTIMORE COUNTY WILL NOT PERFORM THE INSPECTION OR PREPARE THE AS-BUILT PLANS OR CERTIFICATION. THE STORMWATER MANAGEMENT PERMIT SECURITY WILL NOT BE RELEASED UNTIL THE AS-BUILT PLANS AND CERTIFICATION ARE APPROVED BY BALTIMORE COUNTY.

IN ORDER TO PREPARE THE REQUIRED AS-BUILT PLANS AND CERTIFICATION, THIS STORMWATER MANAGEMENT FACILITY MUST BE INSPECTED BY THE ENGINEER AT SPECIFIC STAGES DURING CONSTRUCTION AS REQUIRED BY THE CURRENT BALTIMORE COUNTY STORMWATER MANAGEMENT POLICY AND DESIGN MANUAL. THE CONTRACTOR SHALL NOTIFY THE ENGINEER AT LEAST FIVE (5) WORKING DAYS PRIOR TO STARTING ANY WORK SHOWN ON THESE PLANS.

"AS-BUILT" CERTIFICATION

I HEREBY CERTIFY THAT THE FACILITY SHOWN ON THIS PLAN WAS CONSTRUCTED AS SHOWN ON THE SPECIFICATIONS. THESE "AS-BUILT" PLANS AND MEETS THE APPROVED PLANS AND

SIGNED _____ P.E. _____

PRINT _____ DATE _____

Design Flow Summary

Design Point #1	2-Year	10-Year	100-Year
Predeveloped Peak (cfs)	12.68	38.06	69.64
Developed Peak (cfs)	12.59	37.87	68.61
Design Point #2			
Predeveloped Peak (cfs)	1.30	5.40	10.90
Developed Peak (cfs)	0.99	4.05	8.02

Underground Facility

	2-Year	10-Year	100-Year
Allowable Release (cfs)	3.96	12.86	24.17
Developed Inflow (cfs)	17.46	34.16	52.01
Developed Outflow (cfs)	4.35	13.52	24.83
Water Surface Elevation (ft)	539.12	541.06	543.96
Storage Provided (cft)	16,287	30,312	45,243

Structure Type:	Underground Facility/Stormceptor
Structure Classification	A
Structure Location	Urban
Watershed Area to Facility	7.76 Ac.
Level of Management Provided	2, 10, 100-Year Storms
Storage Height Product	5.98 Ac. Ft²

Inspection Schedule

1. Prior notification shall be given to the engineer so that inspections may be made at the following stages:
   - (1) Upon completion of excavation to subfoundation and where required, installation of structural supports or reinforcement for structures, including but not limited to:
     - (i) Stone bedding below underground facility;
     - (ii) Inlet-outlet structures, watertight connectors on pipes; and
     - (iii) Trenches for enclosed storm drainage facilities.
   - (2) During placement of structural fill, reinforcing and concrete, and installation of piping and catch basins;
   - (3) During backfill of foundations and trenches; and
   - (4) Upon completion of final grading and establishment of permanent stabilization.

   No work shall proceed until the engineer inspects and approves the work previously completed.
2. Geotechnical compaction testing of the facility backfill is required. Certification must be provided to the designated engineer in charge of the as-built.
3. A copy of all material supply tickets must be given to the designated engineer in charge of the as-built.

Underground S.W.M Facility Maintenance Schedule

The facility shall be inspected twice annually. The underground facility owner(s) and any heirs, successors, or assigns shall be responsible for the safety of the facility and the continued operation, surveillance, inspection, and maintenance thereof. All appurtenances shall be kept free of trash. Erosion and/or undermining of the retaining wall at the underground facility outfall pipe(s) must be avoided, and repair immediately as needed.

NOTE THIS UNDERGROUND STORMWATER MANAGEMENT FACILITY IS A CONFINED SPACE AND ACCESS TO THE FACILITY WILL BE CONTROLLED BY OSHA REQUIREMENTS.

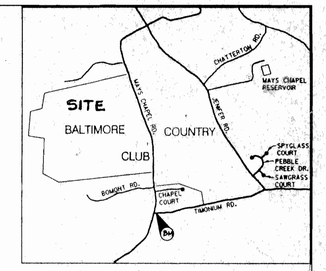
Sequence of Construction

1. Obtain all necessary permits from federal, state, and local authorities having jurisdiction over the proposed construction.
2. Notify the Baltimore County Department of Environmental Protection and Resource Management, Inspection and Enforcement Division (887-3226) at least 48 hours prior to beginning work.
3. Clear, grub, and install sediment control measures only.
4. Excavate the underground facility.
5. Install underground facility (stone, modified Type C manhole, stormceptor, and retaining wall).
6. Concurrent with backfill over the underground facility, install storm drain inflow pipes from M-1 and I-14.
7. Stabilize disturbed areas with seed and mulch.
8. With prior approval of the Sediment Control Inspector, remove all sediment control measures after disturbed areas have been stabilized.
9. Fine grade site and stabilize all remaining disturbed areas.
10. Remove inlet protection/blocking from all storm drain inlets draining to the underground facility.
11. Conduct "as-built" survey of facility and storm drains within the limit of stormwater management easement.

General Notes:

1. Unless otherwise noted, all construction and workmanship shall be in accordance with:
   - A. Baltimore County Department of Public Works Standard Specifications and Details for Construction 1976, Errata and Addenda.
   - B. Maryland Department of Transportation State Highway Administration, January, 1982, Standard Specifications for Construction and Materials.
2. This site lies within the Gunpowder Branch watershed.
3. Stormwater management is approved under Bill No. 105-84.
4. This facility is private and shall be maintained by the developer.
5. All construction must be supervised by a geotechnical engineer.
6. Two, 10 and 100 year stormwater management is required and provided.
7. Baltimore County storm drain design standards and general standards conformed with the latest edition.

* NOTE : Allowable release was determined using short cut routing which is a conservative estimation, therefore the developed outflow exceeds the allowable release but management is provided at the design point and is shown in the design flow summary.



LOCATION MAP

SCALE: 1" = 2000'

BENCHMARK : HUB No. 11737 ELEV. 540.787 1/2" IRON BAR IN GROUND ON SOUTH SIDE OF TIMONIUM ROAD AT MAYS CHAPEL ROAD.

LEGEND

GIB (B) — SOILS DELINEATION

A — B — TIME OF CONCENTRATION

DRAINAGE AREA DIVIDE

PROPERTY LINE

AREA IN SQ. MILES (1) TIME OF CONCENTRATION, RUNOFF CURVE NUMBER

OWNER/DEVELOPER:

BALTIMORE COUNTY CLUB
4712 CLUB ROAD
BALTIMORE, MARYLAND 21210
(410) 889 4400

APPROVED: P. A. Kirch, Chief 9-17-96
Storm Water Management Division
BALTO. CO. DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

DATA SOURCES:

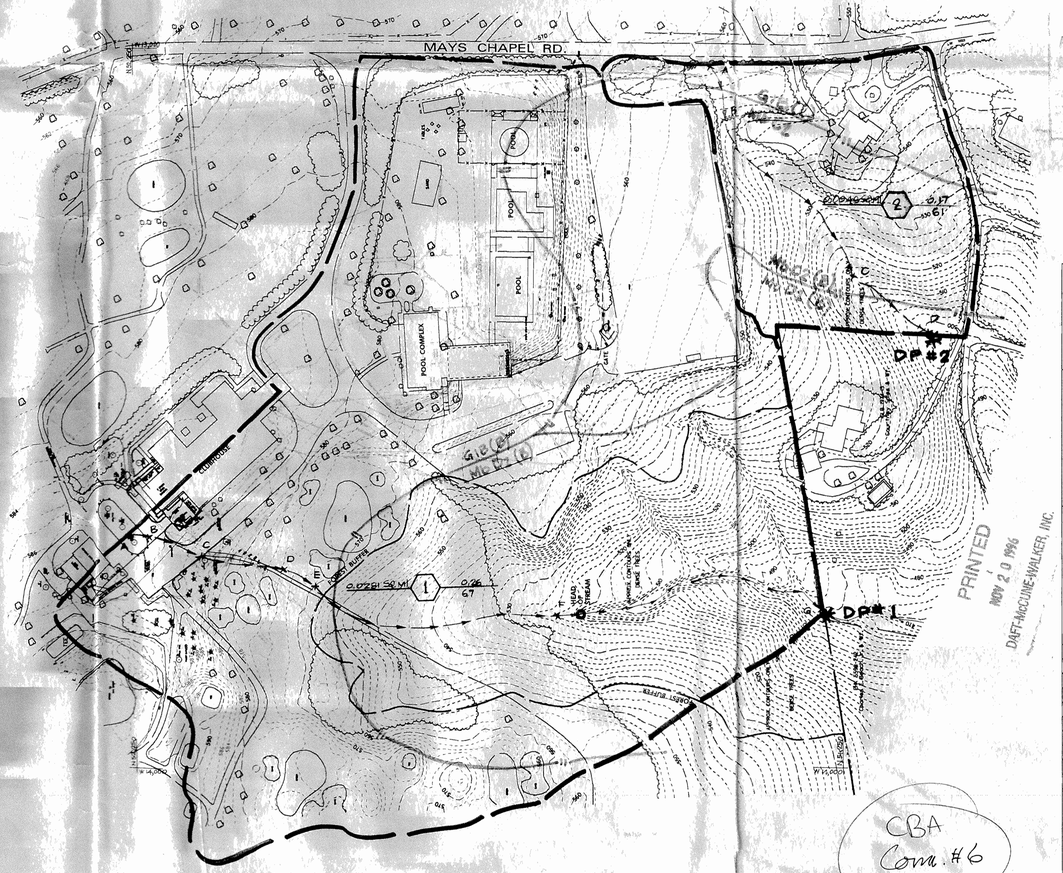
Baltimore County Soil Conservation District

APPROVED FOR STORM WATER MANAGEMENT

P. A. Kirch 9-17-96 211-1802-16

APPROVED: DEPT. OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT — DATE 9-17-96

FINAL PLAN
DAFT-McCUNE-WALKER, INC.
DATE



EXISTING DRAINAGE AREA MAP

PRINTED NOV 20 1996 DAFT-McCUNE-WALKER, INC.

CBA Com. #6

DMW

Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

Baltimore Country Club

Drainage Area Maps

Five Farms Phase II
Clubhouse Improvements
Parking and Tennis Court Plan

STATE OF MARYLAND — MAX KANTZER — No. 6872 — REGISTERED PROFESSIONAL ENGINEER

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:		BASE:	PSN
BID:		DRAWN:	DBS
PERMIT:		DESIGNED:	PSN
CONSTRUCTION:		CHECKED BY:	JWR
SCALE:	1" = 100'	DATE CHECKED:	05/30/96
PROJECT NO.:	82032MI	DRAWING:	1 OF 6

Thu May 23 08:59:59 1996 c:\82032mi\82032mi.dwg

IN RE: PETITION FOR SPECIAL HEARING * BEFORE THE
NW/Corner Mays Chapel & Bormont Roads,
SW/S Mays Chapel Road, 361' SE * DEPUTY ZONING COMMISSIONER
of Chapel Ridge Road
(11500 Mays Chapel Road) * OF ~~BALTIMORE COUNTY~~
8th Election District
3rd Councilmanic District * Case No. 97-384-SPH

Baltimore Country Club of *
Baltimore City, Legal Owners;
Deborah Terry, Donna Dow, Joseph R. B. Tubman
and Courtney A. Spies, Sr. - Petitioners

* * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner for consideration of a Petition for Special Hearing filed by Deborah Terry, Donna Dow, Joseph R. B. Tubman, and Courtney A. Spies, Sr., adjoining property owners, through their attorneys, J. Carroll Holzer, Esquire, and Ralph Arnsdorf, Esquire, pursuant to Section 500.7 of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, the Petitioners seek a determination relative to seven issues raised within the Petition for Special Hearing as to whether the Owner of the subject property has forfeited the relief granted in prior Case No. 93-388-X and/or whether there has been any violation of the relief granted in prior Cases Nos. 93-388-X and 93-37-SPH, and provisions for the proper enforcement thereof. In addition, the Petitioners seek a determination as to whether there has been any violation or noncompliance with any zoning regulation, and/or proper interpretation thereof, with respect to the use of the subject property, by the Baltimore Country Club, hereinafter referred to as B.C.C. or "Club". The relief requested is more specifically set forth within the Petition for Special Hearing filed in March 1997, and as amended in July 1997.

As indicated above, this matter was originally scheduled for a public hearing on May 28, 1997, but was subsequently postponed so that the

Exh. A CBA com #1

BALTIMORE COUNTRY CLUB
AT FIVE FARMS

EXISTING DRAINAGE AREA - 1
TO UNDERGROUND FACILITY = 7.76 Ac
RCN = 84

PROPOSED DRAINAGE AREA - 1
TO UNDERGROUND FACILITY = 7.63 Ac
RCN = 84

EXISTING WATER QUALITY FACILITY

STORMWATER MANAGEMENT EASEMENT

EXISTING UNDERGROUND SWM FACILITY

EX. STORM INTERCEPTOR

POOL BUILDING

Tc Path (Proposed)

GIB(B)
MBD2(B)

Trench Drain

POOL

POOL

POOL

COURTS 1,2,3 & 4 = 25100 SF

COURTS 5,6,7 + 8 = 8410 SF

COURTS 8,9= 14272 SF

WALLS, GUTTERS & SIDEWALKS= 7680 SF

COURTS 10,11,12 = 19666 SF

EXISTING D.A - 1A = 11.37 Ac
RCN = 67

PROPOSED D.A. - 1A = 11.42 Ac
RCN = 67

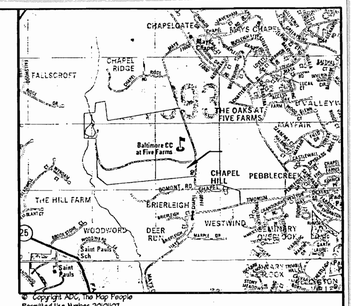
PROPOSED BUILDING = 4435 SF

EXISTING D.A - 2 = 2.16 Ac
RCN = 62

PROPOSED D.A. - 2 = 2.19 Ac
RCN = 62

MAYS CHAPEL ROAD
(COUNTY CLAIMS 40' WIDE)

BALTIMORE COUNT
AT FIVE F



© Copyright ADC, The Map People
Permitted Use Number 20010107

VICINITY MAP 1"=2000'

LEGEND

- EXISTING BUILDING
- LIMIT OF DISTURBANCE (LOD)
- 358 360 EXISTING CONTOURS
- E EXISTING ELECTRIC
- T EXISITING TELEPHONE
- PROPOSED BUILDING
- PROPOSED CONTOURS
- PROP. SD
- EXISTING DRAINAGE AREA
- PROPOSED DRAINAGE AREA
- SOILS BOUNDRY LINE
- FOREST BUFFER
- T_C PATH APPROVED
- T_C PATH PROPOSED.

NOTES:

THE EXISTING DRAINAGE AREA MAP AND HYDROLOGIC INFORMATION WAS TAKEN FROM APPROVED PLANS PREPARED BY DMW, PROJECT # 82032 MI, JUNE 1996.

EXISTING AND PROPOSED DRAINAGE AREA MAP

BALTIMORE COUNTRY CLUB

TENNIS COURT ADDITION

PROPERTY OF
BALTIMORE COUNTRY CLUB
8th ELECTION DIST, BALTIMORE COUNTY, MD

REVISIONS

Com #8

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

DRAWN BY:	SRI	CONTRACT NO.:	
DESIGNED BY:	JST	SCALE: 1:50	
CHECKED BY:	JST	SRI PROJECT NO:	02144
DATE:	31 Oct. 02	SHEET	OF

HOLZER & LEE

LAW OFFICES
J. CARROLL HOLZER, PA
J. HOWARD HOLZER
1907-1989
THOMAS J. LEE
OF COUNSEL

THE 508 BUILDING
508 FAIRMOUNT AVE.
TOWSON, MD 21286
(410) 825-6961
FAX: (410) 825-4923
E-MAIL: JCHOLZER@BCPL.NET

March 31, 2003
6669

Gary Gill, President
Baltimore Country Club at Five Farms
11500 Mays Chapel Road
Timonium, MD 21093

Re: Relocation of Tennis Courts

Dear Mr. Gill:

As you will recall, I represent property owners adjacent to the southern boundary of your Club on Mays Chapel and Bomont Roads involving zoning issues related to the expansion of your Club in 1993 and 1998.

My clients and I have received and reviewed the Baltimore Country Club's *News & Views* newsletter which indicates a proposed planned expansion of tennis facilities at Five Farms. (**Exhibit A** attached hereto) The Plan appears to move parking and the entrance to the tennis courts closer to my clients' properties. The Plan fails to show a sound barrier that had previously been agreed to between my clients and the Club with a planned expansion from 9 to 12 tennis courts.

I would remind you that in the 1993 Agreement with my clients (Zoning Case No. 93-388-X), the Club is required to submit these Plans, and any others, to us for review and comment prior to the Club's permit application. (Please note that the Agreement calls for notification to my clients, **NOT** to any other community organization in the subject area) (**Exhibit B** attached hereto).

The Baltimore Country Club is also reminded that it is not allowed <u>any</u> deviation in the Plans unless it wishes to pursue a Special Hearing as required by the Deputy Zoning Commissioner's Order in Case No. 97-384-SPH. (See letter dated November 11, 1998, attached hereto as **Exhibit C** and Decision in Case No. 97-384-SPH, attached hereto as **Exhibit D**).

CBA
Comm #9 ID.

C:\My Documents\Letters\Balto. Country Club-Bro Tubman.doc

PETERSON, HOWELL & HEATHER, INC.

Fleet management & leasing specialists

2701 NORTH CHARLES STREET ■ BALTIMORE, MARYLAND 21218

JOHN C. G. BOYCE
VICE PRESIDENT

AREA CODE 301 / 889-8110

March 11, 1964

Mr. Charles Buck, President
Board of Governors
Baltimore Country Club
Club Road - Roland Park
Baltimore, Maryland 21210

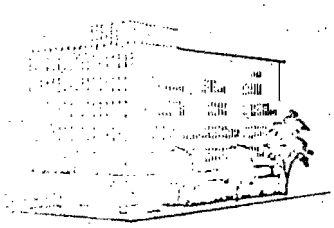
Dear Mr. Buck:

In view of the conversations I have had in the past several years with various members of the Board and committees, which at that time had authority, I was shocked when I went home Monday evening and found what had been done by the contractor who is putting in the parking lot south of the swimming pool. Because of my past cooperation with the Club, I am deeply hurt that the Club has not seen fit to notify me of the change in plans, and I am astonished at the lack of planning that is evident.

All of my conversation with various members of the Board and other interested parties had indicated that the parking lot could not come any closer than sixty feet between the border of my property and the Club. I was given to understand that there would be a 60-foot buffer zone, which to me meant that the trees between the boundary and the parking lot would not be disturbed. Without being advised of any change in these plans, I find now that the land is being cleared within thirty-five feet of the border, and that the original plans called for the parking lot to be drained through my property. This question was never discussed, but I learned that such a plan was dropped because the engineers found that the culvert under Bomont Road at the junction of my property and Mr. Spies', my next door neighbor, was too small to carry the anticipated runoff.

The view from our dining room window is now one large mass of brush piled quite high which cannot be burned prior to May 15, according to the State Forestry regulations. In the meantime, there will be a denuded hill which is bound to wash away in the event of severe and heavy rains.

My wife and I find the sight of the pump house at the swimming pool highly unattractive, and we would like very much to have the Club paint the pump house a dark green so it will blend in with the embankment south of the pool. Since



CBA Comm #10 mail only

92-521-SPH
11/10/92 K

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Arnold Jablon, Director
Zoning Administration and
Development Management

DATE: October 28, 1992

FROM: Ervin Mc Daniel, Chief
Office of Planning and Zoning
Development Review Section

RECEIVED
OCT - 2 1992
ZONING COMMISSIONER

SUBJECT: Addendum to Item No. 40

Supplemental Comments:

The Baltimore County Club at Five Farms is requesting a verification of an alleged non conforming use of a Country Club and golf course. The club is currently improved with a club house, two 18-hole golf courses, practice range, swimming pool, rain shelters, comfort stations, maintainence buildings and staff residences. Section 104 of BCZR states "no non conforming building or structure or parcel of land shall hereafter be extended more than 25% of the ground floor area of buildings so used the petitioner must provide an outline of all parcels owned by the club and when they were acquired. We are aware that parcel 73 on Tax Map 60 was recently purchased by the club and should not be included as part of the non-conforming use of the club. The petitioner may wish to amend the petition for a Special Exception to cover this property, as well as, any others which have not historically been part of the club. Also, a time line showing the dates of construction and size of all buildings on the site in order to determine the amount of expansion left under the 25% rule should be provided.

The community has raised significant concerns regarding runoff, erosion and periodic flooding in the area. These concerns must be addressed as a part of any approval for expansion of these facilities.

If there should be any further questions or if this office can provide additional information, please contact Francis Morsey in the Office of Planning at 887-3211.

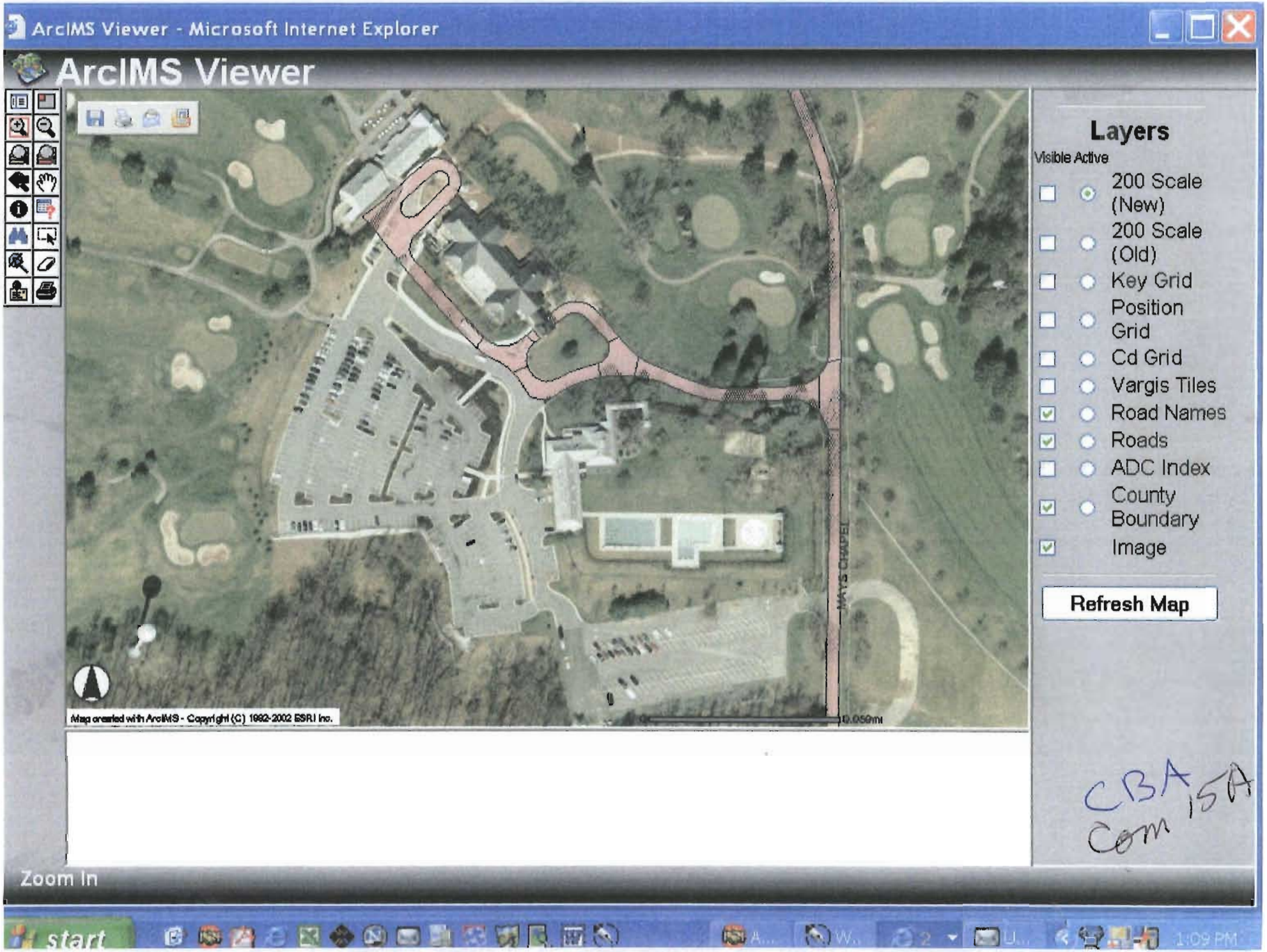
Prepared by: Francis Morsey

Division Chief: Ervin McDaniel

EMcD/FM:rdn

CBA Com # 11

40ADDEM.FM/ZAC1


ArcIMS Viewer - Microsoft Internet Explorer
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Cd Grid
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Roads
ADC Index
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Map created with ArcIMS - Copyright (C) 1992-2002 ESRI Inc.
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Aerial photo taken 5-16-1964 **AJO-2DD-**

Cam 15 B



Aerial photo taken 5-16-1964 **AJO-2DD-**

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ArcIMS Viewer - Microsoft Internet Explorer

ArcIMS Viewer



Layers

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- Road Na
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- ADC Inc
- County Boundar
- Image

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oom In

Baltimore County Government
Department of Environmental Protection
and Resource Management

401 Bosley Avenue
Towson, MD 21204

August 10, 1995

(410) 887-3733

Mr. Ed Haile
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286

RE: BALTIMORE COUNTRY CLUB FIVE FARMS
PHASE II, CLUBHOUSE IMPROVEMENTS,
PARKING & TENNIS COURT PLAN, Storm
Water Management Comments

Dear Mr. Haile:

This office has had a chance to review the information submitted on the future clubhouse parking and tennis complex dated June 30, 1995. Quantity management of the 2, 10 and 100 year storm will be required. Over-management in the one watershed is acceptable as long as the outfalls are acceptable. Water quality will need to be provided for the first half inch of runoff from the new impervious areas. The outfalls from the storm water management facility and the storm drain systems are a great concern. No outfall is shown from the from the proposed underground storm water management facility. The outfall from pool area and northern tennis courts is into a swale with a slope of about 20%. There is concern for possible erosion problems in this swale and along the stream below where this swale joins it. The storm drain outfall for the three southern tennis courts is into an existing wooded swale and then onto the adjacent property. We are concerned about possible adverse impact on the swale and adjacent property. The existing stream was inspected in the past by a member of my staff and members of the Environment Impact Review Section in conjunction with prior work done on this site. It was noted at that time, that the stream was eroding. Therefore, the outfalls from any storm water management or storm drain system will need to be designed to minimize erosion.

If there are any questions contact Ed Schmaus at 887-3768.

Very truly yours,

Thomas L. Vidmar

Thomas L. Vidmar, Chief
Bureau of Engineering Services

TLV:pms
cc: William Rhodes, Acting Dist. Conservationist, SCD
Sheldon Epstein, Storm Drain Design
Environmental Impact Review
COCLUB/DEPRM/TXTPMS

CBA comm #16

Printed on Recycled Paper

DEPARTMENT OF ENVIRONMENTAL PROTECTION
AND RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: R. Bruce Seeley, Development Coordination

DATE: March 28, 1997

FROM: Glenn Shaffer, EIR

SUBJECT: Baltimore Country Club
Amended Special Exception

Upon reviewing the allegations and concerns of the neighbors of Baltimore Country Club (BCC), EIR offers the following information and comments. 1)Any future improvements at the Five Farms site involving forest clearing will subject BCC to the Forest Conservation Regulations (FCR) as 40,000 square feet of forest have been cleared since the effective date of the FCR. 2)There have been several sediment control and water quality violations at BCC associated with construction of the parking facility. 3) BCC is required by DEPRM to both mitigate the permanent impacts to the Forest Buffer Easement (FBE) associated with the new parking lot as well as restore the stream accidentally impacted during the current parking lot construction; no grading securities shall be released by DEPRM until BCC completes the latter restoration. 4) Construction plans for any future improvements at BCC (such as the proposed tennis courts) must be reviewed and approved by DEPRM for compliance with theFCR and the Regulations for the Protection of Water Quality, Streams, Wetlands, and Floodplains as well as all other applicable environmental regulations. 5) Storm water management (SWM) for the recent improvements was reviewed and approved by the SWM Design and Approval Section of DEPRM which decided that the improvements and associated SWM concept adequately met State SWM Regulations.

If there are any questions regarding the information above, please contact me at 887-3980.

c. Patricia Farr
BCC File

bccspex.doc/gs

CBA comm #17

FRANKLIN & PROKOPIK
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

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Two North Charles Street
Baltimore, Maryland 21201-3777
410-752-8700
Facsimile 410-752-6868
www.fandpnet.com

Ralph L. Arnsdorf
Direct Dial 410-230-3619
rarnsdorf@FandPnet.com

32 Washington Street, Suite 6
Easton, Maryland 21601
410-820-0600
Facsimile 410-820-0300

1101 Opal Court
Hub Plaza, Second Floor
Hagerstown, Maryland 21740
301-745-3900
Facsimile 301-766-4676

1033 Sterling Road, Suite 204
Herndon, Virginia 20170
703-796-0136
Facsimile 703-796-0138

Community 18

May 24, 2004

G. Scott Barhight, Esquire
Whiteford, Taylor & Preston
210 West Pennsylvania Avenue
Towson, Maryland 21204

Re: South Five Farms v. Baltimore Country Club

Dear Scott:

I received your letter of May 14 today. I am surprised that you are just now accepting service of the Complaint when Zurich Insurance Company called me quite some time ago to let me know that the case had been tendered to them for defense. Also, we have researched the history of the plans which were sent to DEPRM.

First, we find that Site Resources drafted an "existing and proposed drainage area map" dated October 31, 2002. That date (2002) is on the drawing. The drawing was never sent to my clients for review as promised in the agreement.

Second, Site Resources sent a transmittal to the County dated November 7, 2003 and was logged in at the County on November 13, 2003. The package included the 2002 map and a "Stormwater Management Study" dated November 4, 2003. The letter of transmittal dates the drainage area map as October 31, 2003. The map itself says 2002. This package was never sent to my clients by you and it was the one most critical to my clients. It was also specified in the Agreement which you drafted.

Third, the plans which you did forward (on October 27, 2003) are the demolition and salvage plan, pricing plan, grading and sediment and erosion control, and site details. They are numbered SD-2 to SD-4, and SD-8 to SD-10 and dated September 9, 2003. SD drawings 5, 6 and 7 were missing from the package.

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

Volume 10, February 1992

Special Edition

CBA Community Ex 19

PRESENTATION OF THE LONG-RANGE PLAN FOR REFURBISHMENT OF THE FACILITIES AT FIVE FARMS

After several years of planning, careful research, and various design concepts, the Planning and Capital Improvements Committee, with the full sanction of the Board of Governors, is pleased to present for your approval, the master plan to refurbish the sports facilities and clubhouse, and also to add tennis at Five Farms. This plan will be phased over ten years as Club monies are available with no new or increased assessments.

The plan for the Five Farms facility is basically an upgrading of the buildings and support systems that have been in place for approximately 30 years. As previously committed, the Roland Park clubhouse will remain as the Club's flagship facility for dining and special functions.

Your approval will enable the Club to commence processing this plan with Baltimore County, including the Office of Planning and Zoning and the Department of Environmental Protection and Resource Management. While this proposed site plan could be subject to change due to local and state reviews, our engineering consultants estimate that it will be approximately two years before we know the final outcome of these meetings. Therefore, it is in our best interest to start the review process with Baltimore County as soon as possible, since it is anticipated that the longer we delay, the tougher the laws and policies of the review process will become. This in turn could increase the costs of our plan in the long run. It should be noted that this plan also provides careful coordination with the county's transportation plan for the area, resulting in a strong de-emphasis of traffic on Mays Chapel Road.

From the two membership meetings last spring, some changes were made in answer to some of the membership questions. Your Committee and Board feel this is a sensible, realistic, affordable, and very workable plan to bring Five Farms up to the standards necessary to meet the needs of the membership for the beginning of the 21st Century, and protect and enhance the value of our Club assets.

The swimming pool filtration systems and pool shells are presently in bad shape; last year a temporary "band-aid" was installed around the pool. The pools will basically stay where they are and will be modernized, as will the locker rooms and eating facilities. The grounds will remain essentially the same, providing the traditional relaxing environment for our members.

As you know, our golf shop and bag storage area is too small and the golf carts are stored in two separate areas, with no place for repair other than the driveway near the pool. This plan provides for a new cart storage facility with underground storage and maintenance for all carts, with the at-grade area used for an enlarged golf shop, bag storage area, caddy room, and a state-of-the-art indoor practice facility.

Parking basically would be moved from the south end of the property to the west side of the Club. This new lot would provide over 100 additional parking spaces, closer to the clubhouse, with a convenient golf club drop area. The grade for the new parking area would be a gentle slope, similar to the Roland Park lot. Parking immediately adjacent to the west side of the swimming pool area would remain the same.

The plan provides for tennis to be moved from Roland Park to Five Farms, with nine new har-tru courts. When this move is made, probably five to ten years from now, tennis would be closed at Roland Park, and a

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

Volume 12, March 1996

CBA Community Ex 20

Master Plan Update and New Five Farms Golf House

The 90's have been and will continue to be a decade of change and innovation in the private club industry. Golf course playability and conditioning, clubhouse amenities, food and beverage quality, sports programming and improved member service are more important today as members put higher demands on their club facilities. While a number of clubs today are considering upgrading their facilities to provide quality amenities for their membership, Baltimore Country Club continues to follow a reasonable and rational course of Master Plan Improvements unveiled in March of 1992. These Master Plan improvements, while predominantly for our Five Farms summer and outdoor sports-oriented facility, also acknowledged our commitment to maintain and improve upon our fine dining and indoor-oriented sports activities at Roland Park.

As you will recall, a special edition of News & Views was sent to all voting members in the Club and unveiled a phased improvement plan for Five Farms. This plan described the creation of more functional and updated facilities, dealing with the issues surrounding the general architectural theme, improved site plan utilization, significant upgrades to the pool, golf services, golf maintenance, and Five Farms Clubhouse facilities, as well as the relocation of our tennis complex from Roland Park to Five Farms. The results of that vote, which included 1,283 ballots cast, was overwhelming in support of proceeding with our Master Plan. Across all ages of membership, from the younger members age 25-35 to the oldest member segment age 85 and over, and all groups in between, the vote was remarkably consistent with 87% member approval to proceed with our plan.

"Beginning with the end in mind", M. Jack Rinehart, Jr., FAIA, of Charlottesville, Virginia and an immensely talented and committed Planning and Capital Improvements Committee led by P. Douglas Dollenberg, developed an architectural Master Plan that dealt with the structural and landscape elements of the entire Five Farms location. This plan, when fully implemented, would enhance and improve on the architectural importance of the current Clubhouse, in an attempt to give it a feel of a fine "manor house" by adding vertical elements such as cupolas, gables, porticos as well as adding new one-story elements to our current two-story structure. Conversely, the main support buildings including the pool, the golf maintenance facilities, the proposed new golf services building and the new relocated tennis services building would adopt a rural agrarian theme, supporting the stronger, more articulated brick clubhouse. These new support buildings would mainly be wooden structures with metal roofs, supported by related entry gates, gate posts, fencing, appropriate landscaping and exterior lighting reflective of a fine Maryland horse farm in the tradition of the original "five farms" that were assembled in our acquisition of this property in the 1920's.

We are pleased to report that our new pool facilities as well as the new and refurbished golf maintenance facilities that were both completed in the spring of 1995 have not only been true to our Master Plan vision and extremely well received by our members, but were completed on time and on budget as reported previously and as will be noted in our upcoming 1996 Annual Report to the membership.



Agrarian theme reflected at the Pool House.

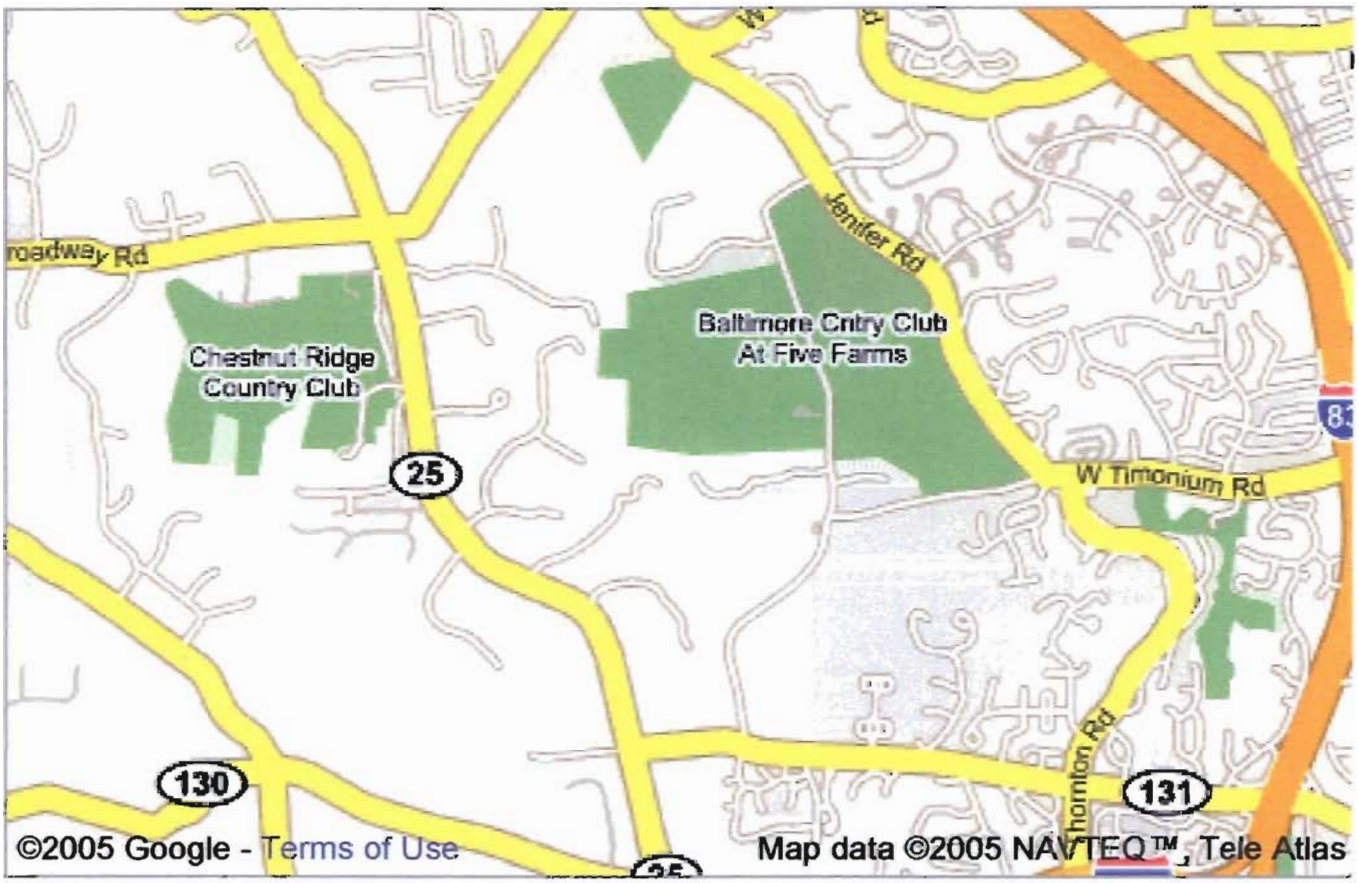
Pool House

As you will notice from the enclosed visuals and based on member feedback and correspondence, 1995, our inaugural year at the new pool complex, was quite successful. Written comments, including "My family loves everything about the new Pool House", and "The melange of improvements...architectural, graphic, member amenities, and the like... work together beautifully" are wonderful tributes to everyone who played a part in the significant upgrades and improvements to our new swimming pool complex at Five Farms. BCC members now enjoy three new swimming pools, as well as a wonderful casual dining and lounge area, upgraded lockerooms, and improved sunbathing furnishings overlooking the rolling lawns. As you walk into the attractive entrance of the swim facility, the new complex unfolds before you: the loggia and terrace area, surrounded by flowering gardens, enhances the new outdoor dining facility. The improved lockerooms offer new amenities, including full length closets for hanging garments, lovely vanities, and upgraded shower facilities. The enclosed porch area is available for dining, with a large screen TV for special event viewing, as well as an expanded menu with special luncheon and dinner options, catering to a wider range of tastes. The tern coated stainless steel roof will never need painting, while providing the look desired by the architectural standards set for this facility. The decorative light fixtures used along the perimeter of the pools and on the building help to unify the architectural elements of the entire complex.

Our young parents and small children enjoy the new wading pool, with a nearby baby-changing area for the convenience of all. The middle pool, now equipped with a diving well and a large play area, is complemented by our olympic-size competition and lap swimming pool, all equipped with new state-of-the art filtration systems and are handicap accessible. All indications are that members thoroughly enjoyed the improvements. Season memberships were up by 32%, and the enthusiasm of members was evident in the increased income and sales generated at the Pool House. Members were able to enjoy the

Google Maps BETA

Map
for *lutherville, md 21093*



Lutherville, MD 21093

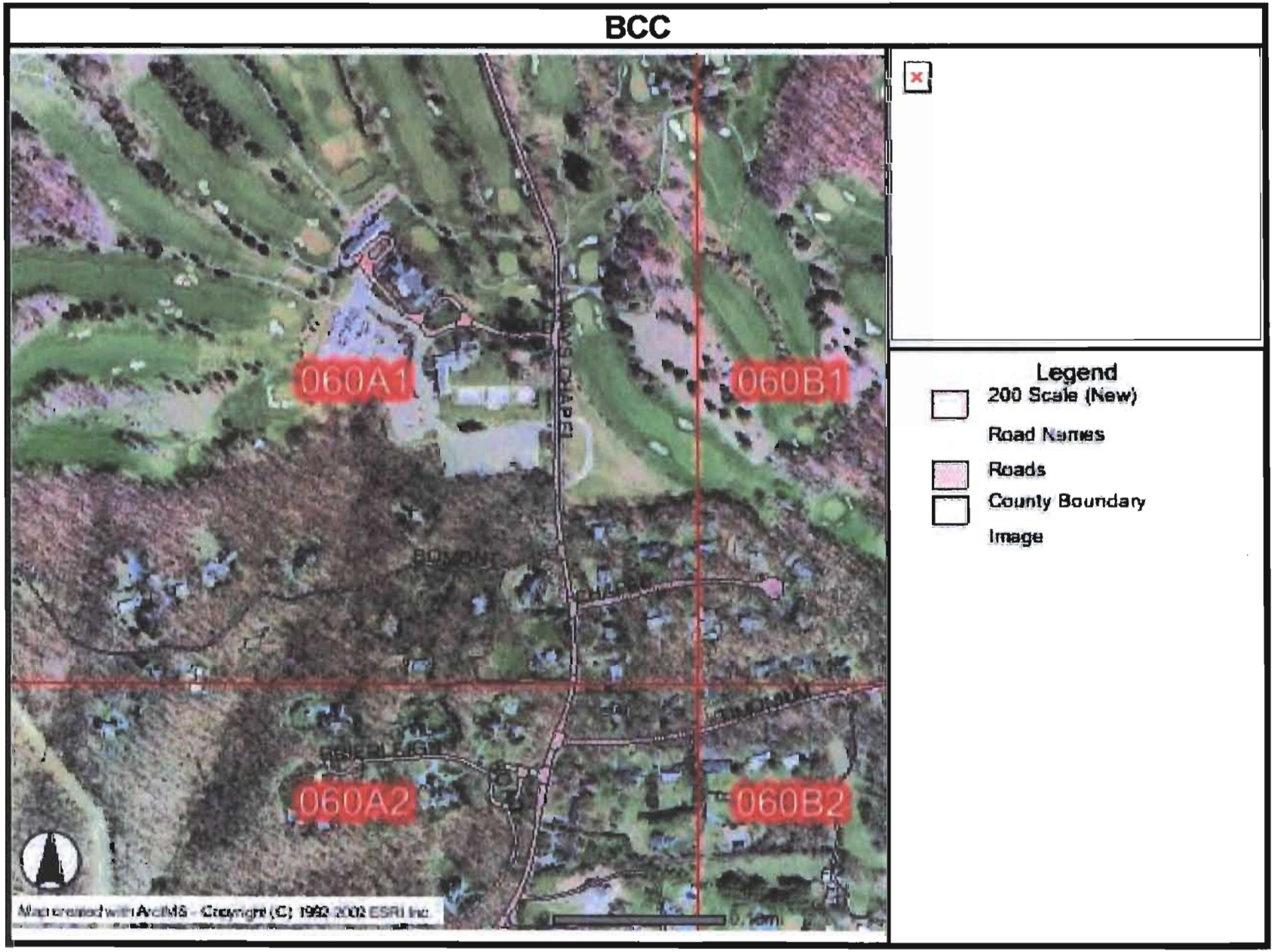
CBA
Community
Ex 21

Google Maps BETA

Local Search
for *baltimore country club*
in *21093*



CBA
Community
Ex 22



CBA Community Ex 23

1

Basis of the Problem with BCC

2

- BCC plans to add tennis to its Five Farms campus, relocating it from Roland Park.
- Neighbors felt that the placement of tennis courts immediately adjacent to our homes, and on a previously residential property, is inappropriate.
- BCC has 409 acres and could have picked a more suitable location.

3

Neighbors' Concerns

- Stormwater management
- Noise
- Loss of forest buffer, habitat
- Impact on Stream
- Lighting
- Traffic
- Trash

4

- In the spirit of compromise, the neighbors signed an agreement in 1993 with BCC to settle Zoning Cases 93-37-SPH and 93-388-X. We bargained away our appeal rights for a defined plan.
- Incorporated in the agreement is a plan showing 9 tennis courts.
- This representation for 9 courts is the basis on which the neighbors agreed to settle.
- At the time, the neighbors fully believed this had concluded the issue.

5

- Our primary allegation is that BCC has breached the agreement by repeatedly changing the plan.
- The enlarged development has a substantially greater effect on the neighbors.
- This has been the basis of the zoning cases in 1997 and 2004.

6

- The neighbors contend that our agreement with BCC was for 9 courts.
- 9 courts were present on the plans in the zoning hearings of 1993 and 1997
- Nine courts were represented in writing in the agreement, as well as shown on the incorporated plan in 1993.

CBA
Comm #24

W 14000
N 52500
W 13250
N 52500

FOREST BUFFER
APPROX. CONTOURS ONLY
DENSE TREES
HEAD OF STREAM
CLUBHOUSE
POOL COMPLEX
POOL
POOL
POOL
SAND
TABLES
GREEN
TEE
PUTTING GREEN
PATIO
MAYS CHAPEL RD.

Ptn. 5598-242
Charles E. Beach, Jr. & Wf.

L.B. 1974-65
Courtney Spires & Wf.

TBS 1693-324
Barbara Crab Boyce

DATA SOURCES:

CBA Community Ely 25

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
Fax 296-4705

A Team of Land Planners, Landscape Architects, Engineers, Surveyors & Environmental Professionals

Baltimore Country Club

DATE	BY	REVISIONS

ISSUE DATES			
REVIEW:		BASE:	SPF
BID:		DRAWN:	SPF
PERMIT:		DESIGNED:	DEL
CONSTRUCTION:		CHECKED BY:	EFH
SCALE:	1" = 50'	DATE CHECKED:	4-4-96
PROJECT NO.:	82032MI	DRAWING:	

Thu Apr 4 13:48:54 1996 /tm3/82032mi/82032mi01

IN RE: * BEFORE THE HEARING OFFICER/

BALTIMORE COUNTRY CLUB * DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTRY

* Case No. 97-384-SPH

* November 13, 1997

CBA Comment Ex 26

Full Transcript ~~As Copied~~ Attached

* * * * *

The above-entitled matter came on for hearing before the Hearing Officer/Deputy Zoning Commissioner of Baltimore County at the County Courts Building, Room 407, Towson, Maryland 21204 at 9:10 a.m., November 13, 1997.

* * * * *

BEFORE:

TIMOTHY M. KOTROCO,
Hearing Officer/
Deputy Zoning Commissioner

J. CARROLL HOLZER, Esquire
On behalf of Petitioners

G. SCOTT BARHIGHT, Esquire
On behalf of Protestants

TOWSON REPORTING COMPANY, INC.
AFFILIATED WITH THE GORE BROS. REPORTING & VIDEO CO., INC.
CAROLYN E. PEATT
COURT REPORTER

Reported by:
C.E. Peatt

600 BALTIMORE AVENUE
SUITE 201
TOWSON, MD 21204

410-828-4148 OFFICE
410-321-0272 FAX
(DEPOSITION ROOM AVAILABLE)

TENNIS COMPLEX

The Tennis Clubhouse and 9 courts will be adjacent to the Pool Facility but separated from it by a road with parking. The Clubhouse will be centrally located within the Tennis Complex and have direct access to the driveway, parking, and courts.

The preliminary scheme calls for an open Observation Porch, a Pro-shop and Locker Rooms within one building. Materials and detailing will be similar to the Pool Facility, but the profile will be distinctive.

A stadium court is planned for the east side of the Clubhouse. Typical court orientation is north-south. The courts will have Hartrue surfaces and be enclosed by fences with angled corners.

Court visibility is a prime consideration. The Observation Porch has views to the six courts, including the stadium court. The Pro's Office is located centrally so that all nine courts are visible from it.

CBA
Comment
Ex 27

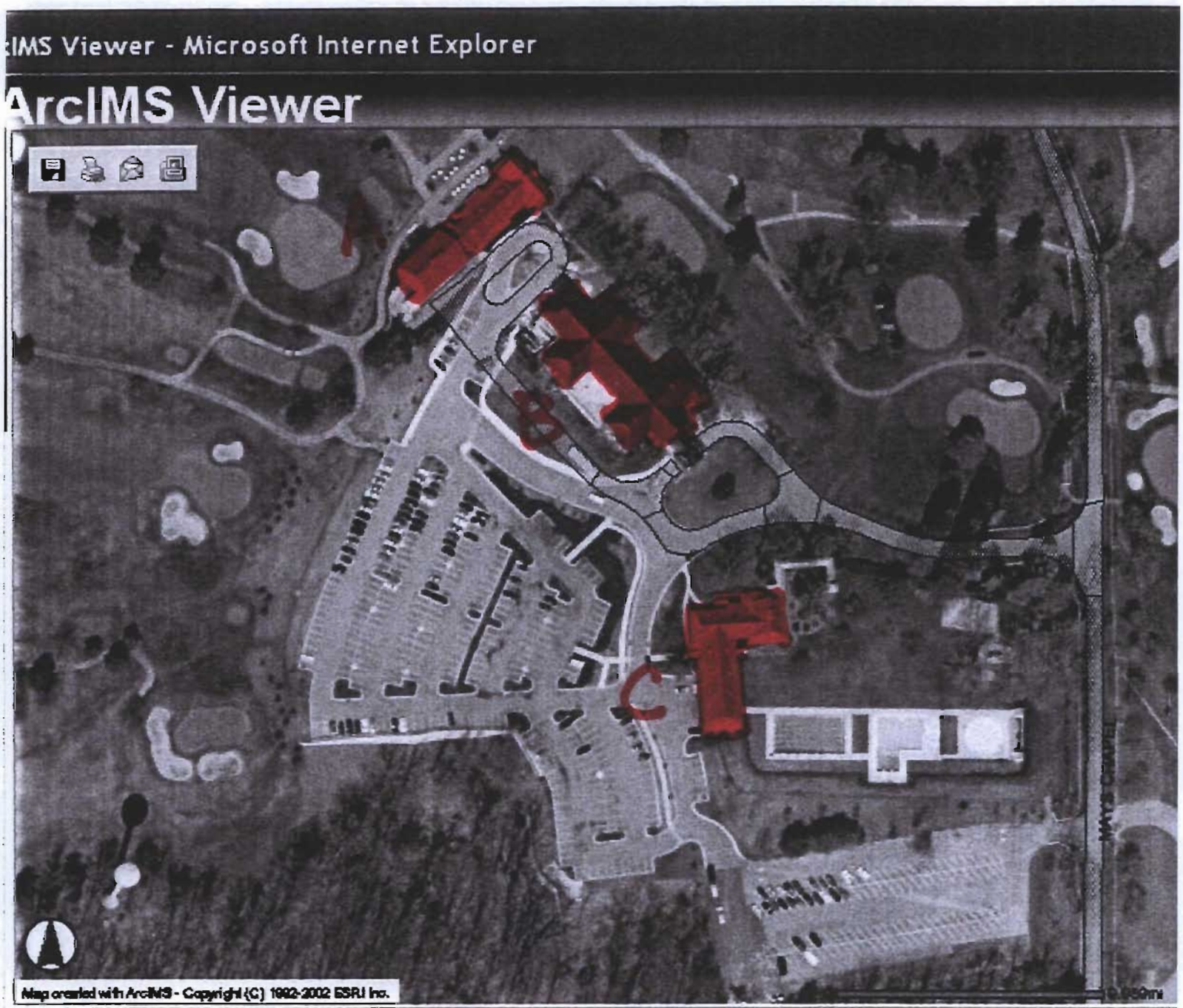


Aerial photo taken 5-16-1964 **AJO-2DD-**

A 2,922
B 10,265
C 5,527

TOTAL 18,714

CBA Community Ex 28



Calculated single story

A 10,066
B 13,840
C 8.808

TOTAL 32,714

Actual

A 16,143 (2/95)
B 29,773 (2/95)

54,724

Comment 1
Ex 29

M. JACK RINEHART, JR. FAIA
FELLOW OF THE AMERICAN INSTITUTE OF ARCHITECTS

BCC Community Ex 30

BALTIMORE COUNTRY CLUB AT FIVE FARMS
PRELIMINARY OUTLINE PROGRAM

Clubhouse
(First and Second Floors Only)

February 1995

SPACE	NOTES	PROPORTIONS	NEW SF	RENOV SF
First Floor				
Entry	New entry hall; grand two-story space, formal in character	18 x 24	432	
Foyer	Hallway with display cases; access to Reception, Coat Room and South Stair	14 x 24		336 (336)
Lobby	Sitting area for casual gatherings, waiting, cocktails	26 x 38		988 (532)
Reception	Switchboard, reception desk	8 x 10		80
Coat Room	Space for 260 coats	10 x 20		200 (144)
Men's and Women's Restrooms	(Review Code for fixture quantities). Handicap accessible			412 (412)
Janitor's Closet				21 (21)
Elevator	New; access to Second Floor (Locker Rooms) and Basement (Furniture Storage)	8 x 12		96

407 WATER STREET, CHARLOTTESVILLE, VIRGINIA 22902-5274 TELEPHONE 804/295-7128



Baltimore County
Maryland

Tile Id: 060A1

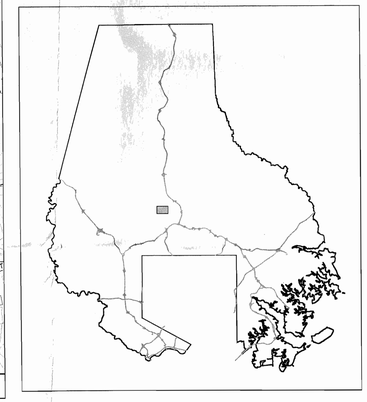
Legend

- Radio Towers
- Transmission Towers
- Microwave Transmitters
- Residential
- Commercial
- Institutional
- Garages and Other Structures
- Buildings Under Construction
- Toll Booths and Rail Stations
- Water Towers and Storage Tanks
- C_line
- Index Contour
- Intermediate Contour
- Index Depression Contour
- Intermediate Depression Contour
- Obscured Index Contour
- Obscured Intermediate Contour
- Obscured Index Depression Contour
- Obscured Intermediate Depression Contour
- Hidden Contour
- Spot Elevation
- Water Elevation
- Bridge Elevation
- Rooftop Elevation
- Junkyard
- Quarries
- Gravel\Sand Pit
- Landfill
- Cemetary
- Area Under Construction
- Power Stations
- Race Tracks
- Commercial Pool
- Golf Courses
- Baseball\Athletic Fields
- Tennis Court
- Park\
- Bike and Hike Areas
- Playground
- Paved Roads
- Curbs
- Hidden Roads
- Unpaved Roads
- Road Under Construction
- Unnamed Roads
- Paved Alleys
- Paved Parking Lots, Driveways, Runways, Taxiways
- Bridges and Overpasses
- Tunnel Portal
- Rail Line
- Hidden Rail Line
- Abandoned Line
- Metro Line
- Light Rail
- Light Rail Under Construction
- Transmission Line
- Pipeline
- Natural Hydrography, Reservoirs, and SW Retention Ponds
- Bay Area
- Boat Ramps, Piers, Dams, and Bulkheads
- Single Line Streams
- Culvert
- Hidden Hydrography
- Wetlands and Swamps
- 2775 - 9999
- Bulkheads
- Floodwall
- Wooded Areas, Orchards and Nurseries
- Tree Rows
- Wetlands, Swamps

0 160 320 640 960 1,280 Feet

1 inch equals 200 feet

Contour Interval: 2'



Map Notes:
Map Production date: Jun 16, 2005
Map compiled using photogrammetric methods from 1" = 200' aerial photography dated 4/2000

Projection:
Maryland State Plane
Zone ID 1900
NAD 83 US SURVEY FEET

CBA
Com # 31

CBA Comm 32

Jack Dillon & Associates, LLC

410-337-5455 Fax 410-337-5476 410-221-0060

jackdillon@dmv.com

Baltimore County
207 Courtland Avenue
Towson, Maryland 21204

Dorchester County
922 Parson Drive
P.O. Box 64
Madison, Maryland 21648

Resume of Jack Dillon
Principal of Jack Dillon & Associates, LLC

EDUCATION

B.S. in Business Management
University of Baltimore, Baltimore, MD (1969)
Graduate Summer Program in Urban Planning
Georgia Institute of Technology, Atlanta, GA (1969)
Para Legal Program University of Maryland
University of Maryland University College (1978)
Video & Television Production
Dundalk Community College (1984-1986)
Attended Graduate Program in Landscape Architecture
Morgan State University, Baltimore, MD (1992-1994)

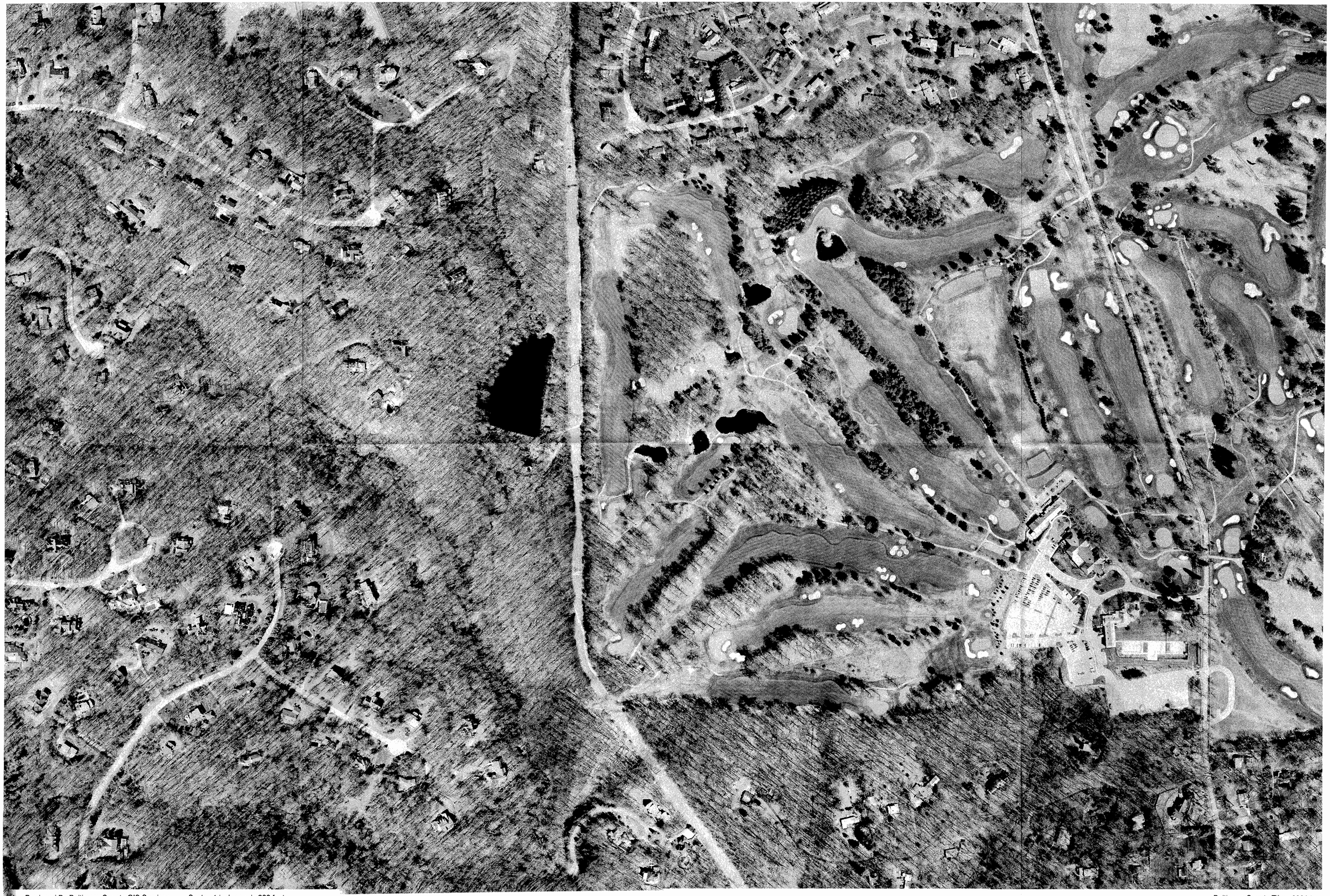
PROFESSIONAL AFFILIATION

American Planning Association

EMPLOYMENT

Mr. Dillon was employed by Baltimore County from 1962 to 1996. He was assigned to a special research project at Johns Hopkins University from 1962 thru 1965 and then two years at the jointly staffed Baltimore City and Baltimore County Analyzer Office at the Ashburton Filtration Plant. He then worked in the Office of Planning and Zoning, eight years in the Zoning Office and the remaining twenty one years in the Planning Office until his retirement in 1996.

In 1997 he accepted the position of Executive Director of The Valleys Planning Council, a private non-profit planning and land preservation organization. He retired from that position in September 2004 when he formed his planning consulting firm.



Map Produced By Baltimore County GIS Services Scale: 1 inch equals 200 feet

Baltimore County Tile: 060A1



BBC Exeter 2002 CBA 34



CBA
Comm 35

CBA Comm 36

Click here for a plain text ADA compliant screen.

Maryland Department of Assessments and Taxation
BALTIMORE COUNTY
Real Property Data Search

Go Back
View Map
New Search
Ground Rent

Account Identifier: **District** - 08 **Account Number** - 0802001650

Owner Information

Owner Name:	BALTO COUNTRY CLUB OF BALTO CITY	**Use:**	COMMERCIAL
		Principal Residence:	NO
Mailing Address:	4712 CLUB RD BALTIMORE MD 21210	**Deed Reference:**	1) / 592/ 324 2)

Location & Structure Information

Premises Address
11500 MAYS CHAPEL RD

Legal Description
405.2318 AC
WS MAYS CHAPEL RD
800FT N TIMONIUM RD

Map	Grid	Parcel	Sub District	Subdivision	Section	Block	Lot	Assesment Area	Plat No:
60	3	38						2	Plat Ref:

Special Tax Areas **Town**
Ad Valorem
Tax Class

Primary Structure Built	Enclosed Area	Property Land Area	County Use
1964	43,492 SF	405.23 AC	27

Stories	Basement	Type	Exterior

Value Information

	Base Value	Value As Of 01/01/2005	Phase-in Assessments As Of 07/01/2004	As Of 07/01/2005
Land:	8,130,000	10,505,200		
Improvements:	2,809,800	3,169,300		
Total:	10,939,800	13,674,500	10,939,800	11,851,366
Preferential Land:	0	0	0	0

Transfer Information

Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**
Seller:	**Date:**	**Price:**
Type:	**Deed1:**	**Deed2:**

Exemption Information

Partial Exempt Assessments	Class	07/01/2004	07/01/2005
County	000	0	0
State	000	0	0
Municipal	000	0	0

Tax Exempt: NO
Exempt Class:

Special Tax Recapture:
* NONE *



CBA37 Plan dated 6-11-83



CBA 38 Plan detail 18-24-03



CBA 39

Plan dated Oct 31- 2002 / 2003

Dept. 31, 2005

(w/ 04-508-SPH)

20040508 "A"

AND

20040900

EXHIBITS

TRANSCRIPTS

6

6

-SPH

-SPH

6/16/05 @ ~~10 am~~ 9 am Day 2 ✓
6/21/05 @ ~~10 am~~ 9 am Day 3 ✓
8/19/05 @ 900 am Day 4 ✓
10/06/05 @ 900 am Delib.

Oct. 31, 2005

(W/
2004
2004

BALTIMORE COUNTRY CLUB CASE NO. 04-508-SPH
Deborah Terry, et al – Petitioners

AND

BALTIMORE COUNTRY CLUB CASE NO. 04-600-SPH
Baltimore Country Club – Petitioner

FILE 2 OF 4
Case File No. 04-600-SPH

EXHIBITS
TRANSCRIPTS

Community List of Exhibits Provided to Board 8/18/05

Exhibits
Cases 04-508, 04-600
July &September 2004

Community

1 Building Permit Plan 12/24/03 (12 courts & building)

2 Site Plan Special Hearing 1993 (93-37-SPH), 7/16/1992 (9 courts, Blue Dot)

3 Decision 93-37-SPH

4 Parcel A & B Plan (used in agreement), 6/11/1993 (9 courts)

5 A-Decision 93-388_X
B-Agreement
C-Covenant

6 Drainage Area Map 1996, 5/30/1996 (12 courts & building & parking)

7 Decision 97-384-SPH

8 Drainage Area Map 10/31/02 (or 03)

9 Letter 3/31/03 Holzer to BCC

10 Spies Letters – History of Problems (ID only)

11 OPZ Memo 10/28/92 (25% Rule)

12 93-37-SPH File

13 93-388-X File

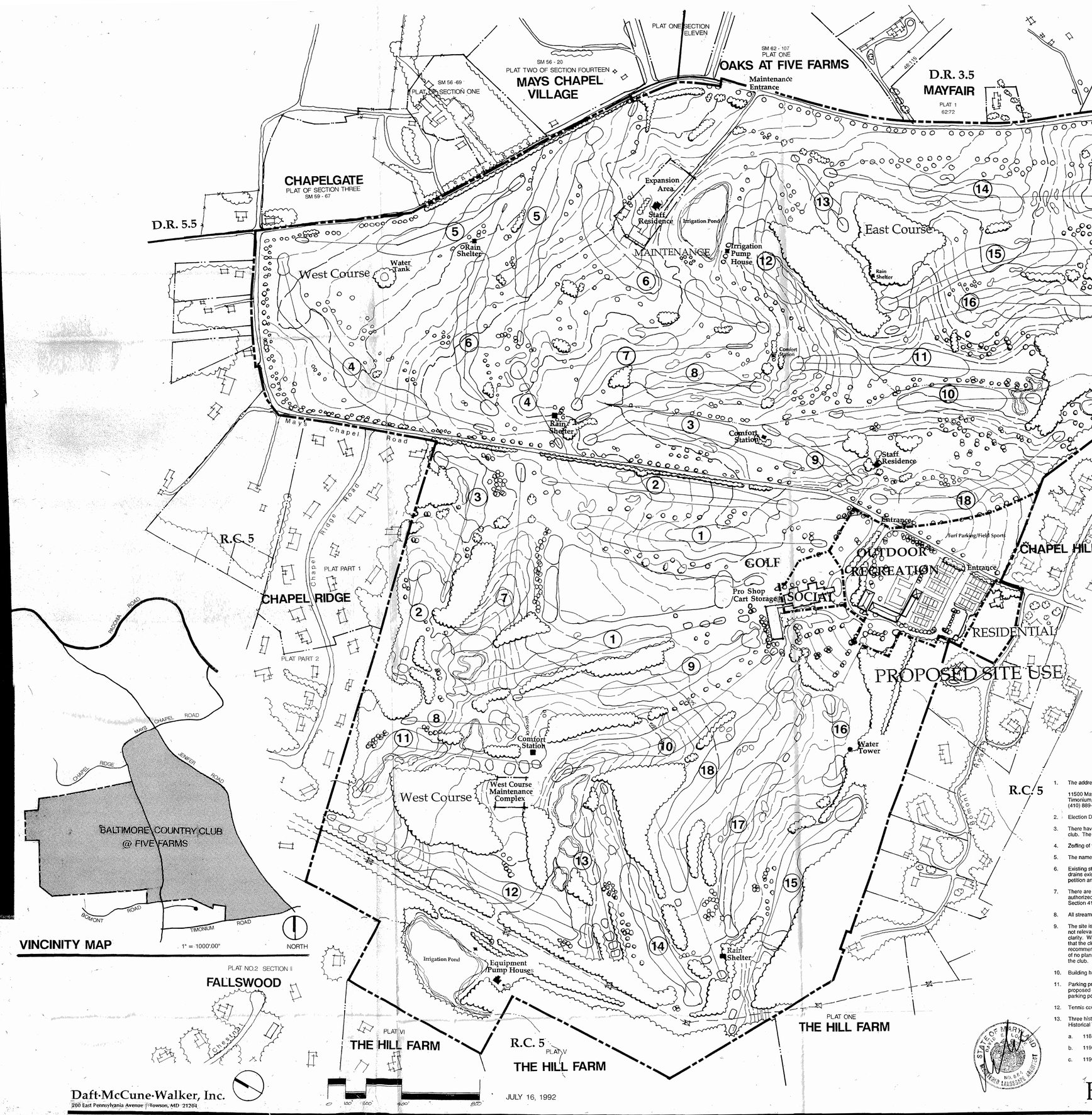
14 97-384-SPH File

15 Aerial Photos
A color photo 1998
B B&W photo 1964
C B enlarged, colored
D A enlarged, colored

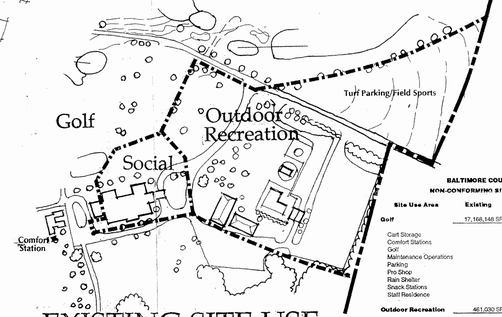
16 DEPRM Memo 8/10/95, Environmental Concerns

17 DEPRM Memo 3/28/97, Forest Conservation Regulations

18 Letter 5/24/04 Arnsdorf to Barhight



VINCINITY MAP



EXISTING SITE USE

BALTIMORE COUNTRY CLUB AT FIVE FARMS
NON-CONFORMING SITE USE AND ACTIVITY ANALYSIS

Site Use Area	Existing	Proposed	Percent Change
Golf	17,168,146 SF	17,100,964 SF	-0.4%
Cart Storage		Cart Storage	
Comfort Stations		Comfort Stations	
Golf		Golf	
Maintenance Operations		Maintenance Operations	
Parking		Parking	
Pro Shop		Pro Shop	
Rain Shelter		Rain Shelter	
Snack Stations		Snack Stations	
Staff Residence		Staff Residence	
Outdoor Recreation	461,030 SF	542,100 SF	+17.6%
Badminton (Lawn Court)		Badminton (Lawn Court)	
Croquet (Lawn Court)		Croquet (Lawn Court)	
Field Sports		Field Sports	
Cart Storage		Parking	
Parking		Picnicking	
Picnicking		Snack Bar, Manager's Office	
Snack Bar, Manager's Office		Support (Lockers, Pool, Equipment)	
Support (Lockers, Pool, Equipment)		Swimming	
Swimming		Tennis	
Volleyball (Lawn Court)		Volleyball (Lawn Court)	
Social	76,655 SF	81,720 SF	+6.6%
Cards		Cards	
Changing Rooms		Changing Rooms	
Clubhouse Functions		Clubhouse Functions	
Dining		Dining	
Member Functions		Member Functions	
Outdoor Dining		Outdoor Dining	
Parking		Parking	
Residential		94,305 SF	N/A
TOTAL	17,705,833 SF	17,819,089 SF	+0.6%
	(406.5 Acres)	(409.1 Acres)	

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400

2. Election District 8; County Council District 3
3. There have been no previous zoning hearings relevant to the country club status of the club. The 1988 Comprehensive Zoning Map last classified it RC-5.
4. Zoning of the club and adjacent properties is as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to the non-conforming country club petition and are not shown for purposes of clarity.
7. There are no signs on the country club property other than directional signs as authorized by Section 413.1e.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
8. All streams and stormwater management areas within 50 feet are shown.
9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. Staff recommendations being considered by the Planning Board would keep the area as one of no planned service, but grant a special exception for a sewer connection serving only the club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the "outdoor recreation" site use area.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:
    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

Baltimore Country Club at Five Farms
Non-conforming Use Petition

This petition for a special hearing seeks confirmation that Baltimore Country Club is a valid, non-conforming country club. Component site use areas within the total tract which reflect traditional uses at the club have been designated as "golf", "outdoor recreation", "social", and "residential". Within each of the site use areas, activities are listed which are intended to be illustrative of those which take place or are expected to take place. The activities listing is not finite and may be modified if an activity is in accordance with the nature and purpose of Baltimore Country Club.

No site use area will expand more than 25 percent beyond that shown as existing for each of the component areas. Buildings and other improvements may also be adjusted in terms of area or location if they are consistent with the nature and scope of the component site use areas of Baltimore Country Club.

Subject to the above, component site use areas and buildings, improvements, activities, etc., also may be modified to respond to specific agency requirements resulting from subsequent permitting reviews, and if in accordance with the order of the Zoning Commissioner in this case.

Plan to Accompany
Special Hearing Petition Plan Dated 7/16/92

Baltimore Country Club at Five Farms

Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue | Towson, MD 21204

JULY 16, 1992

Zoning Notes

Baltimore Country Club at Five Farms Special Exception Petition

1. This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.
2. Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.
3. Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.
4. The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.
5. All paved parking spaces shall be striped.
6. Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

1.	Number of tennis courts in Parcel A	3 courts
2.	Parking standard	3/court
3.	Required spaces	9 spaces
4.	Parking spaces provided in Parcel A	11 spaces

The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.

PLAT ONE SECTION ELEVEN
SM 62 - 107 PLAT ONE
SM 56 - 20 PLAT TWO OF SECTION FOURTEEN
SM 56 -69 PLAT OF SECTION ONE
MAYS CHAPEL VILLAGE
OAKS AT FIVE FARMS
Maintenance Entrance
D.R. 3.5
MAYFAIR
PLAT 1
62/72
PEBBLE CREEK
63/55
PLAT ONE
D.R. 5.5
CHAPELGATE
PLAT OF SECTION THREE
SM 59 - 67
D.R. 5.5
R.C. 5
Expansion Area
Staff Residence
Irrigation Pond
MAINTENANCE
Irrigation Pump House
Water Tank
Rain Shelter
West Course
East Course
Bulk Storage
Rain Shelter
T. EDWARD HAMBLETON, JR.
5195A
Timonium Road
NONCONFORMING USE AREA
Comfort Station
Rain Shelter
Comfort Station
Staff Residence
MARTHA F. SYMINGTON
4972/322
16.22A
Mays Chapel Road
PARCEL B
SPECIAL EXCEPTION AREA
R.C. 5
Chapel Ridge Road
PLAT PART 1
CHAPEL RIDGE
NONCONFORMING USE AREA
Pro Shop Cart Storage
Entrance
Turf Parking/Field Sport
CHAPEL HILL
Chapel Court
PARCEL A
(See Enlargement)
SPECIAL EXCEPTION AREA
Courtney & Ruth C. Spies
GLB 1974-15
2.53 A
R.C. 5
Water Tower
West Course Maintenance Complex
West Course
Comfort Station
Irrigation Pond
Equipment Pump Houses
Rain Shelter
PLAT PART 2
PLAT VI
THE HILL FARM
R.C. 5
PLAT V
THE HILL FARM
PLAT ONE
THE HILL FARM
PLAT NO.2 SECTION II
FALLSWOOD
Chestnut

TENNIS COURTS (REV. 55'W)
TENNIS COURTS (REV. 54'W)
RET. WALL TYP.
2@ 170.0'
11 @ 59.5'
7 @ 59.5'
11 @ 93.5'
EXISTING 2 STORY DWELLING
SIDE DRIVE
BOMONT ROAD

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-4400
2. Election District 8; County Council District 3
3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.
4. Zoning of the club and adjacent properties are as shown.
5. The names of adjoining subdivisions are as shown.
6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.
7. There are no signs on the country club property other than directional signs as authorized by Section 413.1E.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.
8. All streams and stormwater management areas within 50 feet are shown.
9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.
10. Building heights do not exceed the permitted 35 feet.
11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.
13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970
    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890
    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948

VINCINITY MAP 1" = 1000'-00" NORTH

PARCEL A
PROPOSED SITE USE SCALE: 1"=50'-0"

BCC Pre-Hearing Memorandum Tab 4 Pax 6

Plan Dated - 6/11/93

Parcel A & B Plan to Accompany
Special Exception Petition

Baltimore Country Club at Five Farms

Two of Two

Daft·McCune·Walker, Inc.
200 East Pennsylvania Avenue Towson, MD 21286

PROJECT NO 82032.G1

MAY 3, 1993 REVISED JUNE 11, 1993

IN THE MATTER OF: * BEFORE THE

BALTIMORE COUNTRY CLUB - * COUNTY BOARD OF APPEALS

Legal Owner; Deborah Terry, * OF BALTIMORE COUNTY

et al - Protestants/Petitioners * Case No. 04-508-SPH

and *

IN THE MATTER OF: *

BALTIMORE COUNTY CLUB - * Case No. 04-600-SPH

Legal Owner/Petitioner * June 15, 2005

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9 a.m., June 15, 2005.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF: * BEFORE THE

BALTIMORE COUNTRY CLUB - * COUNTY BOARD OF APPEALS

Legal Owner; Deborah Terry, * OF BALTIMORE COUNTY

et al - Protestants/Petitioners * Case No. 04-508-SPH

and *

IN THE MATTER OF: *

BALTIMORE COUNTY CLUB - * Case No. 04-600-SPH

Legal Owner/Petitioner * June 16, 2005

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9 a.m., June 16, 2005.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF: * BEFORE THE

BALTIMORE COUNTRY CLUB - * COUNTY BOARD OF APPEALS

Legal Owner; Deborah Terry, * OF BALTIMORE COUNTY

et al - Protestants/Petitioners * Case No. 04-508-SPH

and *

IN THE MATTER OF: *

BALTIMORE COUNTY CLUB - * Case No. 04-600-SPH

Legal Owner/Petitioner * June 21, 2005

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9:30 a.m., June 21, 2005.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

IN THE MATTER OF:	* BEFORE THE
BALTIMORE COUNTRY CLUB -	* COUNTY BOARD OF APPEALS
Legal Owner; Deborah Terry,	* OF BALTIMORE COUNTY
et al - Protestants/Petitioners	* Case No. 04-508-SPH
and	*
IN THE MATTER OF:	*
BALTIMORE COUNTRY CLUB -	* Case No. 04-600-SPH
Legal Owner/Petitioner	* August 19, 2005

* * * * *

The above-entitled matter came on for hearing before the County Board of Appeals of Baltimore County at the Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204, at 9:30 a.m., August 19, 2005.

* * * * *

ORIGINAL

Reported by:

C.E. Peatt

Paid

IN RE: PETITIONS FOR SPECIAL HEARING
N/S Bomont Rd. at Intersection
With Mays Chapel Rd.
11500 Mays Chapel Road

8th Election District
2nd Councilmanic District

Deborah Terry, et al., Petitioners
(referred to as "Community")

Baltimore Country Club of
Baltimore City, legal owners and
Petitioners
(referred to as "BCC")

* BEFORE THE DEPUTY
* ZONING COMMISSIONER
* OF BALTIMORE COUNTY
*
* Case No.: 04-508-SPH
(Filed by Deborah Terry, et al.)
* &
Case No. 04-600-SPH
* (Filed by BCC)
*

RECEIVED
NOV 19 2004
Per

* * * * * * * * * * * * * *

NOTICE OF APPEAL

Deborah & Fred Terry, 747 Bomont Road; Donna Dow, M.D., 721 Bomont Road; Joseph B.R. Tubman, 11431 Mays Chapel Road; and Courtney Spies, Jr., 722 Bomont Road, all of Timonium, MD 21093, individual Appellants in the above captioned case, by and through their attorney, J. Carroll Holzer and Holzer and Lee, feeling aggrieved by the decision of the Deputy Zoning Commissioner in the above captioned cases, hereby note an appeal to the County Board of Appeals from Findings of Fact and Conclusions of Law in Case No. 04-508-SPH, filed by Deborah Terry, et al. in which the DZC **Denied** in part the requested relief. Appellants also appeal to the County Board of Appeals Case No. 04-600-SPH filed by Baltimore Country Club which was **Granted** in part by the DZC. The Findings of Fact and Conclusions of Law dated October 22, 2004 is attached hereto and incorporated herein as **Exhibit #1**.

Filed concurrently with this Notice of Appeal is Appellants' check made payable to Baltimore County to cover the costs of the appeal. Appellants were parties below and fully participated in the proceedings.

LAW OFFICE
HOLZER AND LEE
THE 508 BUILDING
8 FAIRMOUNT AVENUE
TOWSON, MARYLAND
21286

(410) 825-6961
FAX (410) 825-4923

Respectfully submitted,

J. CARROLL HOLZER, Esquire
Holzer & Lee
508 Fairmount Avenue
Towson, Maryland 21286
410-825-6961
Attorney for Appellants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 19th day of November, 2004, a copy of the foregoing Notice of Appeal was mailed first class, postage pre-paid to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 West Pennsylvania Ave., Towson, MD 21204; County Board of Appeals, Basement Old Court House, 400 Washington Ave., Towson, MD 21204; and People's Counsel for Baltimore County, Basement, Old Courthouse, 400 Washington Ave., Towson, MD 21204.

J. CARROLL HOLZER, Esquire

C:\My Docs\Notices 2004\Terry BCC CBA November 19, 2004

Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

for the property located at 11500 Mays Chapel Road
which is presently zoned RC5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve

See continuation sheet

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

Name - Type or Print

Signature

Address Telephone No.

City State Zip Code

Attorney For Petitioner:

G. Scott Barhight, Esquire
Dino C. La Fiandra, Esquire
Name - Type or Print

Signature

Whiteford, Taylor & Preston LLP
Company

210 W. Pennsylvania Ave., Suite 400
Address Telephone No.

Towson, MD 21204 (410) 832-2000
City State Zip Code

Legal Owner(s):

Baltimore Country Club of Baltimore Cit
Name - Type or Print

Signature

Name - Type or Print Michael Stott

Signature

4712 Club Road
Address Telephone No.

Baltimore, MD 21210
City State Zip Code

Representative to be Contacted:

G. Scott Barhight, Esquire
Name

210 W. Pennsylvania Ave., 410-832-200
Address Telephone No.

Towson, MD 21204
City State Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING _____

UNAVAILABLE FOR HEARING _____

Reviewed By CTM Date 6/25/04

Case No. 04-600-SPH

REV 9/15/98

Petition for Special Hearing
Continuation Sheet
11500 Mays Chapel Road

Questions Presented by Petition for Special Hearing:

1. What are the geographic limits of the non-conforming use found to exist in Case No. 93-37-SPH?

2. Within the context of the provisions relating to the Outdoor Recreational Area in Zoning Case 93-37-SPH, does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use as shown the site plan to accompany this Special Hearing?

3. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restrictions on the rights of Baltimore Country Club with respect to the nonconforming use found to exist in Zoning Case No. 93-37-SPH. If so, what are the restrictions?

4. If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

#600

#600

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

Description to Accompany
Petition for Special Hearing
406.4 Acre Parcel, Baltimore Country Club
Of Baltimore City Property
Southwest Side of Jenifer Road
North Side of Jenifer Road
North Side of Timonium Road
Eighth Election District, Baltimore County, Maryland

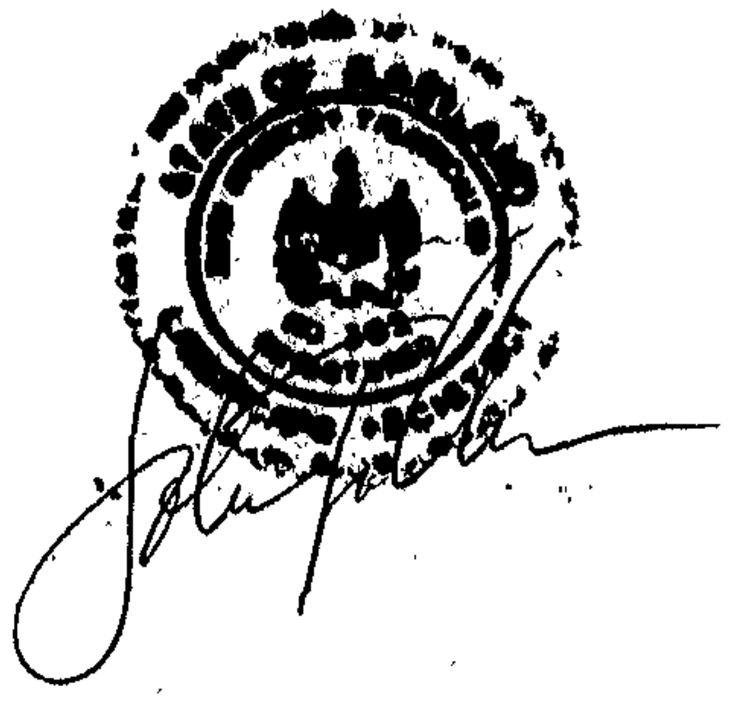
Beginning for the same at a point along the centerline of Mays Chapel Road 124.00 feet northwest of the intersection of the centerline of Mays Chapel Road with the centerline of Bomont Road, and, thence leaving said centerline of Mays Chapel Road and running the following eight courses and distances, viz: (1) South 84 degrees 57 minutes East 256.00 feet, thence (2) South 87 degrees 38 minutes East 343.08 feet, thence (3) South 56 degrees 57 minutes East 875 feet, thence (4) North 86 degrees 26 minutes East 11.5 feet, thence (5) South 41 degrees 34 minutes 24 seconds East 40.64 feet, thence (6) North 48 degrees 25 minutes 36 seconds East 52.00 feet, thence (7) North 86 degrees 26 minutes East 172.00 feet, and thence (8) South 03 degrees 34 minutes East 261.25 feet to intersect the centerline of Timonium Road, thence binding on the centerline of Timonium Road the following five courses and distances, viz: (9) North 86 degrees 26 minutes East 132.5 feet, thence (10) South 84 degrees 43 minutes East 82.5 feet, thence (11) South 87 degrees 35 minutes East 660 feet, thence (12) North 77 degrees 18 minutes East 231 feet, and thence (13) North 82 degrees 10 minutes East 495 feet to intersect the northeast side of Jenifer Road, thence leaving the said centerline of Timonium Road and binding on the said northeast side of Jenifer Road (14)) North 34 degrees 38 minutes West 985.67 feet, and thence (15) North 27 degrees 57 minutes West 660 feet to a

14307 Jarrettsville Pike · Phoenix, MD 21131
(410) 683·3388 · fax (410) 683·3389

point in the centerline of said road, thence (16) North 21 degrees 15 minutes West 283.75 feet to a point in the centerline of said road, thence (17) North 17 degrees 31 minutes West 346.5 feet to a point on the northeast side of said road, thence (18) North 11 degrees 49 mnutes West 165 feet to a point on the northeast side of said road, thence (19) North 06 degrees 03 minutes West 753.43 feet, thence (20) South 85 degrees 21 minutes 30 seconds West 21.90 feet to the southwest right-of-way line of said Jenifer Road, thence binding on said right-of-way line (21) Northwesterly, by line curving to the left with a radius of 650.00 feet for a distance of 488.67 feet (the arc of said curve being subtended by a chord bearing North 26 degrees 10 minutes 45 seconds West 477.25 feet), thence Leaving said right-of-way line (22) North 42 degrees 17 minutes 00 seconds East 20.00 feet, thence binding along the southwest side of said Jenifer Road (23) North 47 degree 43 minutes West 1325.17 feet, thence (24) North 25 degrees 15 minutes West 802 feet to a point in said road, thence (25) South 73 degrees 30 minutes West 630 feet to a point on the northwest side of Mays Chapel Road, thence binding on said northwest side of road (26) South 62 degrees 15 minutes West 100 feet, thence (27) South 43 degrees 45 minutes East 15.60 feet to the centerline of said road, thence binding on the centerline of said road (28) South 61 degrees West 160.88 feet, thence (29) South 49 degrees 30 minutes West 66 feet, thence (30) South 33 degrees 38 minutes West 75 feet to a point on the west side of said road, thence binding on said west side (31) South 10 degrees 24 minutes East 467 feet, thence (32) South 11 degrees 25 minutes East 362 feet to a point in Mays Chapel Road, thence leaving said road and running the following sixteen courses and distances, viz (33) South 86 degrees 44 minutes West 2459 feet, thence (34) South 08 degrees 51 minutes West 454.75 feet, thence (35) North 81 degrees 09 minutes West 350 feet, thence (36) South 08 degrees 30 minutes West 809.42 feet, thence (37) South 82 degrees 42 minutes East 350 feet, thence (38) South 07 degrees 18 minutes West 277.83 feet, thence (39) South 07 degrees 11 minutes West 696.75 feet, thence (40) South 51 degrees 29 minutes East 647.5 feet, thence (41) South 50 degrees 52 minutes East 334.14 feet, thence (42) North 88 degrees 31 minutes East 162 feet, thence (43) North 01 degrees 26 minutes West 21 feet, thence (44) North 88 degrees 34 minutes East 100 feet, thence (45) South 01 degrees 26 minutes East 21 feet, thence (46) North 88 degrees 34 minutes East 1651.5 feet, and thence (47) North 88 degrees 34 minutes East 400 feet to the Centerline of Mays Chapel Road,

thence binding along the centerline of Mays Chapel Road South 08 degrees 07 minutes West 150.79 feet to the point of beginning, containing 406.4 acres of land, more or less.

THIS DESCRIPTION HAS BEEN PREPARED FOR ZONING PURPOSES ONLY AND IS NOT INTENDED TO BE USED FOR CONVEYANCE.
THE BALTIMORE COUNTRY CLUB OUTLINES DESCRIBED HEREIN ARE PER TITLE REPORT BY AMERICAN TITLE GUARANTEE CORPORATION (APP. NO. BC-8395).



NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #04-600-A
11800 Mays Chapel Road
Centerline of Mays Chapel Road, 124 feet n/west of centerline of intersection of Mays Chapel & Belmont Road
7th Election District - 2nd Councilmanic District
Legal Owner(s): Baltimore Country Club of Baltimore City

Special Hearing: to determine what the geographic limits are of the non-conforming use in Case No. 93-037-SPH. Does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restriction on the rights of Baltimore Country Club with respect to the non-conforming use found to exist in Zoning Case 93-037-SPH. If so what are the restrictions? If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue.

LAWRENCE E. SCHMIDT
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 6/878 June 29 11311

CERTIFICATE OF PUBLICATION

6/30, 2004

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 6/29/, 2004.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

BALTIMORE COUNTY, MARY'
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 13000

DATE 6/25/04 ACCOUNT R001 006 6150

AMOUNT $ 325.00

RECEIVED FROM: W.T.S.P

FOR: 04-600-SPH

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

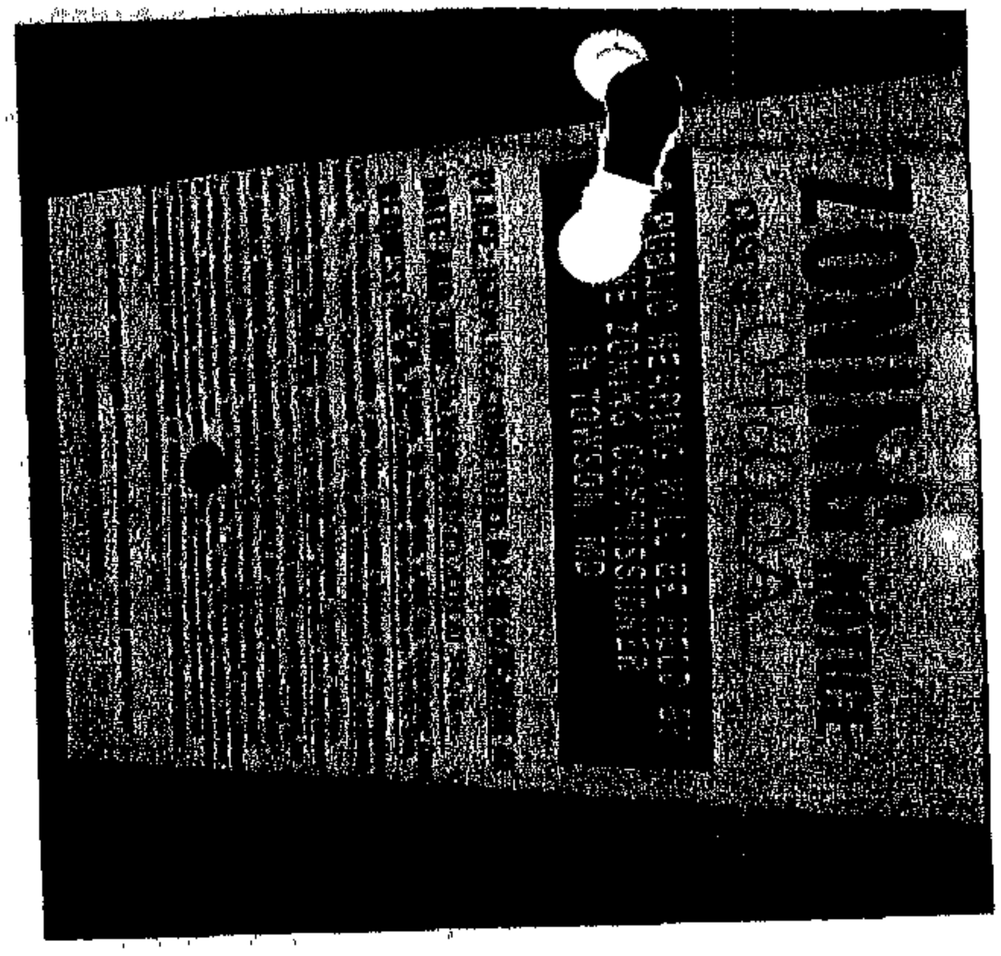
PAID RECEIPT

BUSINESS	ACTUAL	TIME	DRW
6/25/2004	6/25/2004	10:00:38	

REG WSMV WALKIN 10CL DMD
RECEIPT # 269904 6/25/2004 OFLN
Dept 5 328 ZONING VERIFICATION
Ck NO. 013680

Recpt Tot $325.00
$325.00 CK $.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION



E OF POSTING

RE: Case No.: 04-600-A

Petitioner/Developer: BALTO. COUNTY CLUB OF BALTO. CITY

Date of Hearing/Closing: JULY 15, 2004

ATTN: Kristen Matthews {(410) 887-3394}

Ladies and Gentlemen:

This letter is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at:

11500 MAYS CHAPEL RD

The sign(s) were posted on 6/30/04
(Month, Day, Year)

Sincerely,

Robert Black 7/1/04
(Signature of Sign Poster) **(Date)**

SSG Robert Black
(Print Name)

1508 Leslie Road
(Address)

Dundalk, Maryland 21222
(City, State, Zip Code)

(410) 282-7940
(Telephone Number)

Department of Permits & Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708

Baltimore County

James T Smith, Jr., County Executive
Timothy M. Kotroco, Director

June 25, 2004

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-600-A
11500 Mays Chapel Road
Centerline of Mays Chapel Road, 124 feet n/west of centerline of intersection of Mays Chapel & Bomont Road
7th Election District – 2nd Councilmanic District
Legal Owners: Baltimore Country Club of Baltimore City

Special Hearing to determine what the geographic limits are of the non-conforming use in Case No. 93-037-SPH. Does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restriction on the rights of Baltimore Country Club with respect to the non-conforming use found to exist in Zoning Case 98-037-SPH. If so what are the restrictions? If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Dino LaFiandra, Whiteford, Taylor & Preston, 210 W. Pennsylvania Ave., Ste. 400, Towson 21204
Michael Stott, Baltimore Country Club of Balto. City, 4712 Club Road, Baltimore 21210

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, JUNE 30, 2004.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

TO: PATUXENT PUBLISHING COMPANY
Tuesday, June 29, 2004 Issue - Jeffersonian

Please forward billing to:
Dino LaFiandra
Whiteford, Taylor & Preston
210 W. Pennsylvania Ave., Ste. 400
Towson, MD 21204

410-832-2000

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 04-600-A
11500 Mays Chapel Road
Centerline of Mays Chapel Road, 124 feet n/west of centerline of intersection of Mays Chapel & Bomont Road
7th Election District – 2nd Councilmanic District
Legal Owners: Baltimore Country Club of Baltimore City

Special Hearing to determine what the geographic limits are of the non-conforming use in Case No. 93-037-SPH. Does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restriction on the rights of Baltimore Country Club with respect to the non-conforming use found to exist in Zoning Case 98-037-SPH. If so what are the restrictions? If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

Hearing: Thursday, July 15, 2004 at 9:00 a.m. in Room 106, County Office Building,
111 W. Chesapeake Avenue

Lawrence E. Schmidt

LAWRENCE E. SCHMIDT
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Department of Permits and Development Management

Development Processing
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204

Baltimore County

James T. Smith, Jr., County Executive
Timothy M. Kotroco, Director

July 7, 2004

G. Scott Barhight
Whiteford, Taylor, & Preston
210 W. Pennsylvania Avenue, Ste. 400
Towson, Maryland 21204

Dear Mr. Barhight:

RE: Case Number:04-600-SPH, 11500 Mays Chapel Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on June 25, 2004.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR: clb

Enclosures

c: People's Counsel
Baltimore Country Club of Baltimore City 4712 Club Road Baltimore 21210

Printed on Recycled Paper

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA
State Highway Administration
Driven to Excel

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

MARYLAND DEPARTMENT OF TRANSPORTATION

Date: 7.2.04

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 600 LTM

Dear. Ms.Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

K. A. McDonald

Kenneth A. McDonald Jr., Chief
Engineering Access Permits Division

Fire Department

700 East Joppa Road
Towson, Maryland 21286-5500
Tel: 410-887-4500

Baltimore County

James T. Smith, Jr., County Executive
John J. Hohman, Chief

County Office Building, Room 111
Mail Stop #1105
111 West Chesapeake Avenue
Towson, Maryland 21204

July 1, 2004

ATTENTION: Kristen Mathews

Distribution Meeting of: July 1, 2004

Item No.: 585, 592-596, 598-609 (600)

Dear Ms. Mathews:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

5. The Fire Marshal's Office has no comments at this time.

LIEUTENANT JIM MEZICK
Fire Marshal's Office
PHONE 887-4881
MS-1102F

c: File

Printed on Recycled Paper

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: July 12, 2004

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

RECEIVED
JUL 12 2004
ZONING COMMISSIONER

SUBJECT: 11500 Mays Chapel Road

INFORMATION:

Item Number: 4-600

Petitioner: Baltimore Country Club of Baltimore City

Zoning: RC 5

Requested Action: Special Hearing

SUMMARY OF RECOMMENDATIONS:
The petitioners are neighboring property owners of the Baltimore Country Club and are parties to a 1993 agreement with the club regarding the Boyce and Merrick parcels (also known as Parcel A and B). The subject petition raises several questions concerning the applicable zoning and development processes as pertains to the proposed construction of 12 tennis courts, a tennis building and the elimination of a sound barrier wall.

The Baltimore Country Club was also the subject of a zoning hearing, Case No. 97-384-SPH and is a 2004 CZMP issue (#2-034) in which the Falls Road Community Association requested RC 4 or RC 6 zoning. Planning Board recommendation was to retain the current RC 5 zoning.

The Office of Planning reviewed the petitioner's request and provides the following comments:

1. In the event that the Zoning Commissioner should approve the tennis courts, all stormwater management must be provided in accordance with the agreement with the petitioners.
2. Submit a landscape plan that screens the tennis courts to this office for review and approval prior to the issuance of any building permits.
3. Provide details including construction materials, and heights of the proposed wall.

4. Submit a lighting plan for the tennis courts that meets IESNA standards to this office for review and approval prior to the issuance of any building permits.

Prepared by: Mark A Cunningham

Division Chief: Lynn Larkin

AFK/LL:MAC:

BALTIMORE COUNTY, MARYLAND
DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT

RECEIVED
JUL 30 2004
ZONING COMMISSIONER

TO: Tim Kotroco

FROM: John D. Oltman, Jr JDO

DATE: July 30, 2004

SUBJECT: Zoning Items # See List Below

Zoning Advisory Committee Meeting of July 19, 2004

__X__ The Department of Environmental Protection and Resource Management has no comments on the following zoning items:

04-585
04-592
04-593
04-594
04-595
04-596
04-600
04-601
04-604
04-605
04-606
04-607
04-608
04-609

Reviewers: Sue Farinetti, Dave Lykens

S:\Devcoord\ZAC SHELL 11-20-03.doc

SEVEN SAINT PAUL STREET
BALTIMORE, MARYLAND 21202-1626
TELEPHONE 410 347-8700
FAX 410 752-7092

20 COLUMBIA CORPORATE CENTER
10420 LITTLE PATUXENT PARKWAY
COLUMBIA, MARYLAND 21044-3528
TELEPHONE 410 884-0700
FAX 410 884-0719

G. SCOTT BARHIGHT
DIRECT NUMBER
410 832-2050
gbarhight@wtplaw.com

WHITEFORD, TAYLOR & PRESTON
L.L.P.

210 WEST PENNSYLVANIA AVENUE
TOWSON, MARYLAND 21204-4515
410 832-2000
FAX 410 832-2015
www.wtplaw.com

1025 CONNECTICUT AVENUE, NW
WASHINGTON, D.C. 20036-5405
TELEPHONE 202 659-6800
FAX 202 331-0573

1317 KING STREET
ALEXANDRIA, VIRGINIA 22314-2928
TELEPHONE 703 836-5742
FAX 703 836-0265

RECEIVED
JUL 23 2004
ZONING COMMISSIONER

July 23, 2004

DELIVERY BY HAND

The Honorable John V. Murphy
Deputy Zoning Commissioner for Baltimore County
401 Bosley Avenue, 4th Floor
Towson, Maryland 21204

Re: Baltimore Country Club - 11500 Mays Chapel Road
04-508-SPH (filed by D. Terry, et. al.)
04-600-A (filed by BCC)

Dear Mr. Murphy:

Enclosed for filing in the above-referenced matter, please find Baltimore Country Club's Memorandum in Support of BCC's Oral Motion for a Ruling on Paragraph 1 of Protestants' Petition for Special Hearing and Paragraph 4 of BCC's Petition for Special Hearing.

Thank you for your attention to this matter. Should you have any questions, please do not hesitate to contact me.

Sincerely,

G. Scott Barhight

GSB:sll
Enclosure
cc: J. Carroll Holzer, Esuqire
Ralph L. Arnsdorf, Esquire

312043

Club

Petition for Special Hearing
Continuation Sheet
11500 Mays Chapel Road

Questions Presented by Petition for Special Hearing:

1. What are the geographic limits of the non-conforming use found to exist in Case No. 93-37-SPH?

2. Within the context of the provisions relating to the Outdoor Recreational Area in Zoning Case 93-37-SPH, does the Baltimore Country Club have the right, without further proceedings before the Zoning Commissioner, to alter the proposed tennis area, including providing additional tennis courts, within the geographic limits of the nonconforming use as shown the site plan to accompany this Special Hearing?

3. Whether the Zoning Commissioner's "Findings of Fact and Conclusions of Law" and Order in Zoning Case 97-384-SPH imposes any restrictions on the rights of Baltimore Country Club with respect to the nonconforming use found to exist in Zoning Case No. 93-37-SPH. If so, what are the restrictions?

4. If the Zoning Commissioner determines that Zoning Case 97-384-SPH requires a public hearing to approve the configuration of the tennis area as shown on the site plan to accompany this Special Hearing, then the Baltimore Country Club seeks approval of the configuration of the tennis area as shown on the site plan to accompany this Special Hearing.

#600

RE:	PETITION FOR SPECIAL HEARING 11500 Mays Chapel Rd; W/side Mays Chapel 124' NW c/line Mays Chapel Rd & Bomont Rd* 8th Election & 2nd Councilmanic Districts Legal Owner(s): Baltimore Country Club of Baltimore City	*	BEFORE THE ZONING COMMISSIONER FOR
	Petitioner(s)	*	BALTIMORE COUNTY
		*	04-600-SPH

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of July, 2004, a copy of the foregoing Entry of Appearance was mailed to G. Scott Barhight, Esquire, Whiteford, Taylor & Preston, 210 W. Pennsylvania Avenue, Towson, MD 21204, Attorney for Petitioner(s).

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RECEIVED
JUL 13 2004
Per.....

BCC

CASE NAME Bolt County Club
CASE NUMBER 04-508-SPH + 04-600-S
DATE 9/3/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
G. Scott Barhight	210 W Pennsylvania Ave	Towson MD 21204	
Michael Fisher	14307 Jarrettsville Pike	Phoenix, MD 21131	
W. DANIEL WHITE	2103 FOX TRAIL CT	REISTERSTOWN MD 21136	[redacted]
MICHAEL STOTT	1137 FAIRBANKS DR.	LUTHERVILLE, MD 21093	

Baltimore County CWS

CASE NAME DOE
CASE NUMBER 04-508-SPH & 04-600-SPH
DATE 9/3/04

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Carlotta Babylon	200 W Pennsylvania Ave	Towson 21204	
MICHAEL R. STOLL	4712 CLUB RD.	BALTIMORE CITY 21210	

CASE NAME BCC
CASE NUMBER 04-508-SPH
DATE 04-600-SPH
9/3/04

CITIZEN'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E-MAIL
Donna Dow	721 Bomart Rd	Lutherville MD 21093	
COURTNEY SPILES, JR	722 BOMONT RD	LUTHERVILLE, MD. 21093	
J.R.B. TUBMAN	11431 MAYS CHAPEL RD.	LUTHERVILLE, MD. 21093	
Kathryn C. Tubman	11431 Mays Chapel Road	Lutherville, MD 21093	
FRED TERRY	747 BOMONT ROAD	LUTHERVILLE, MD 21093	
Debbie Terry	747 Bomont Rd	Lutherville, MD 21093	
Marvin Tenberg	12206 Boxer Hill Rd	Cockeysville, Md 21030	
Vice President	Falls Road Community Assoc		

Baltimore County Government
Department of Public Works

111 West Chesapeake Avenue
Towson, MD 21204-4604

July 07,1992

Whiteford,Taylor and Preston
500 Court Towers
210 West Pennsylvania Avenue
Towson, Maryland 21204-4515

Attention: G Scott Barhight

RE: Baltimore Country Club
Mays Chapel Road

Gentlemen:

The Development Review Committee met on July 06, 1992, to consider the plan submitted for review.

The submitted plan was determined to be in conformance with the Development Regulations of Baltimore County, as a "Limited Exemption" of Section 26-171(A)(7). Compliance with divisions 3, 4 and 5 is required as is compliance with all applicable zoning regulations.

Be advised that a special hearing is required to establish Nonconforming use for the proposal.

If you have any questions, please contact me at 887-3340.

Sincerely,

LES SCHREIBER
Devel'mt Review Commm. Coordinator
Bureau of Public Services

LCS:lcs
cc: File
Z.A.D.A.M.- Don Rascoe

BACOCLB/REFINE

RECEIVED
JUL 15 1992
WHITEFORD, TAYLOR & PRESTON

EXHIBITS
BCC #1

THE UNION MEMORIAL HOSPITAL
BALTIMORE, MARYLAND 21218

DATE

Dmytz

HISTORY/PHYSICAL EXAMINATION/PROGRESS NOTES/ CONSULTATION/DISCHARGE SUMMARY

DATE	TIME	
		Pearl Spellman - GM 11/1/85 COO
		Prev Ct, Avon Cc
	Hx	Wilmington 4/77
		Hyatt SF
		Carroll 76

Re exhibits authenticate

BCC - unique dual campus RP - clubhouse 10/1 - 4/5 - annual mtg FF 4/15 - 9/30 22 tennis cts, Squash, paddle tennis, bowling, 42 acres @ RP. 405 acres FF - Clubhouse, 36 hole golf, 3 pools, park Activ FF - golf, swimm, Pro shop, golf mnt, storage volleyball, playg fields, Picnic, outside dining "social + athletic"

Proposed plan movement of items to FF from RP pool segment, entry exit. Refurbish swimm "small" clubhouse + addition: pro shop.

Membership ~ 3000 since 1920's - each person considered a member individually Each member is issued first + can select second membership in sports 1992 - 857 golf. 350 swimm 125-130 tennis 40 paddle tennis 100 squash. 170 bowling "steady" membership #'s No ~~#~~ in #'s in future

Add'l Size addit'n

Mbrship is a season part

Relation between tennis + swimm - summer sports tend to be had in head family summit

BCC RP

THE UNION MEMORIAL HOSPITAL
BALTIMORE, MARYLAND 21218

DATE

HISTORY/PHYSICAL EXAMINATION/PROGRESS NOTES/
CONSULTATION/DISCHARGE SUMMARY

(2)

DATE	TIME	
		Tennis at RP-
as will		10 hartrue Bgrass Small Clubhouse.
Tat PF		Usage. 9am dusk 9-1 ≤ 4½ cts/hr
as proposed		1-4 1½ ct/hr
		4-dusk 2½ ct/hr.
ow hours		Proposed hours ad fine of same hours.
ontrolled		Spectator area in hill behind pool + cts.
ached gate:		for 35-40 people to watch main
		Club finals
		Women/men tennis/mixed interclub competition.
		Cross Exam
		re lights "1300 Neg lights.
		"Yes" club does not intend to plan lights
3e.		naturalized seats - wooden benches laid into
		side of hill
Next time		No plans for tournmt Vis Stds, etc
does pool		Rare play @ 730 teams @ RP
close.		More efficient use - not true to month grass
		All hartrue
		Max capacity 36 players.
		Re RP - plan not determined as to which the
		courts are to be abandoned.
		Possible that all courts may be kept —
		"no decision made"
		NO intention to move building
		No " " " squash.
		Paddle tennis to stay @ RP.
		No pool at Roland Park.
		Century pool @ RP was sold off.
		Parking - estimate 150-200 spaces.
		Clubhouse expansion - infill of patio
		Addition to front entrance

Form 908400 (Rev. 5-75)

THE UNION MEMORIAL HOSPITAL
BALTIMORE, MARYLAND 21218

DATE

HISTORY/PHYSICAL EXAMINATION/PROGRESS NOTES/
CONSULTATION/DISCHARGE SUMMARY

(3)

DATE	TIME	
		- Allow woman to age fast → back up athletes going outside
		- Office Space.
		- At present no term courts at Free Farms
		- Water was connected to Bayce house — late Spring '92 / early Summer Memorial Day
		Extended for entire FF property
		Plans for Bayce property
		"Property bought as "buffer"
		Home to remain as rental property
		Plans to clear trees "minor clearing"
		Plans for additional plantings - around tennis + parking
		Consider Fencing - "intent - large evergreens 10-12' to provide screening + privacy
		Combo hi/low chain link fence
		Uniform if create tennis ?
		Many knowledge of Not of club - limited knowledge"
		Less knowledge than Mr. Geary
		Tennis 3 season? Summer - club closes courts.
		Controlled by "public policy"
		"Locked gates" - yes.
		Pool close at dusk. "when can't see bottom of pool - not lit"
		No other property acquired
		Could tennis courts have been placed on property if Bayce property not acquired? Could be laid out on grass but across Magoth.
		Property acquired for conserve + buffer"
		Property at Timm + Jennifer - "may be sufficient size"

STORMWATER MANAGEMENT
Study

BALTIMORE COUNTRY CLUB

TENNIS COURT ADDITION

BALTIMORE COUNTY, MARYLAND

November 4, 2003



OWNER/DEVELOPER:
BALTIMORE COUNTRY CLUB
4712 CLUB ROAD
BALTIMOR, MARYLAND 21210

SITE RESOURCES
incorporated
Comprehensive Land Planning & Site Design Services

SWM
Report
Final 2/5/04

O.K

Narrative

Baltimore Country Club is located on May's Chapel road Approximately 0.25 Miles North of Timonium Road. The Site is located within the Jones Falls Watershed. Storm Water Management for the site was provided in an underground facility constructed and As Built in accordance with the approved plans by DMW Inc. dated 9/17/96. The hydrology submitted is basically the same as the previously approved hydrology; therefore, the existing management facility still provides management for the proposed Tennis courts. The outfall for the Tennis courts is at the same point in the watershed as the previously approved hydrology (into the existing swale on site). This hydrology is done in accordance with the SWM regulations in effect at the time of the previously approved plans.

Drainage Area Summary Table

Area Designation	Approved Plan			Proposed Plan		
	Area (Ac)	RCN	TC	Area (Ac)	RCN	TC
1	7.76	84	0.15	7.63	84	0.15
1A	11.37	68	0.26	11.42	67	0.25
2	2.16	62	0.17	2.19	62	0.15

The Tennis Courts will be Har-Tru, which are permeable and will provide Water quality for water that falls on them. The runoff curve number for the Har-Tru courts used in this analysis is the same as in the previously approved computations. The location of the courts is over an existing parking lot, which will be removed and be ultimately replaced with a significantly smaller parking lot.

It is our opinion that the hydrology of the site under the proposed conditions remains unchanged from the previously approved plans and the site is managed under the previously approved plan.

lte Resources, Inc.
1307 Jarrettsville Pike
lhoenix, Maryland 21131

R-55 DESIGN COMPUTATION DA-1 (to Underground SWM Facility)

Project No.: 02144

_____ Location Baltimore Country Club Tennis Court

ile _____ Area No. _____ Ex _____ Prop. X Ult. _____ Sht. _____ of _____

ii oup	Land Use or Zoning	Hydrologic Condition	% Imperv.	RCN Tbl. 2-2	RCN Fig. 2-3	RCN Fig. 2-4	Area (Ac)	RCN x Area
B	Lawn (Normal)			61			2.32	141.52
-C	Lawn			74			0.82	60.68
	-impervious			98			4.37	428.26
B	Woods			55			0.12	6.6

Total Sq. Mi. 0.0119 Total Acres: 7.63 637.06

Weighted RCN 83.49 Use 84

E OF CONCENTRATION

Type of Flow	L (ft)	n	A	Pw	Slope (%)	Vel. (fps)	Time (hrs)
Sheet Flow (lable 3-1) (1)							
Shallow Conc. Flow (fig 3-1)							
paved unpaved							
paved unpaved							
paved unpaved							
paved unpaved							
Channel Flow Manning							

DMW
Daft McCune Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
FAX: 296-4705

TR-55 DESIGN COMPUTATION

By: PSN Project: Baltimore C C

Date: 5-8-96 Drainage Area: 1 (To SWM Facility) Job Number: 82032M1

Sheet ____ of ____ Existing: ☐ Proposed: ☒ Ultimate: ☐

Soil Group	Land Use or Zoning	Hydrologic Condition	Percent Imperv.	RCN Table 2-2	RCN Figure 2-3	RCN Figure 2-4	Area (Acre)	RCN x Area
B	Lawn (To Remain)	Good		61			2.32	141.52
B-C	Lawn	Good		74			0.82	60.68
	Impervious			98			4.50	441.00
B	Woods (To Remain)	Good		55			0.12	6.60
							7.76	649.80

Total Square Miles 0.0121 - Total Acres: 7.76

Weighted RCN = 83.74 , Use 84

TIME OF CONCENTRATIONS

ID	Type of Flow	L (ft.)	n	A	WP	Slope (Percent)	Vel. (fps)	Time (Hours)
	Sheet Flow (table 3-1)							
A→B	Lawn	25	0.24					
B→C	Impervious	80	0.011			1.0		0.1035
						1.5		0.0190
	Shallow Conc. Flow (fig. 3-1)							
→D	X paved ____ unpaved	150						
	____ paved ____ unpaved					3.8	3.96	0.0105
	____ paved ____ unpaved							
	____ paved ____ unpaved							
	Channel of Conduit Flow - Manning							
-E	Storm Drain Flow	300						
						Assume	6.0	0.0139

ce Travel Time Comps on back of sheet)

Total 0.1469

tial Abstraction Ia = ____ in. (Table Use Tc = 0.15 , Tt = ____

	2 Years	5 Years	10 Years	25 Years	50 Years	100 Years
nfall Freq. -						
nfall, P -	____ in.	____ in.	____ in.	____ in.	____ in.	____ in.
-						
k csm/in. -						
off Q (in) -						
Dischg. (CFS) -						

Site Resources, Inc.
1307 Jarrettsville Pike
Phoenix, Maryland 21131

TR-55 DESIGN COMPUTATION SA-1A (Bypass) Project No.: 02144

By _____ Location Baltimore County - Club - Tennis Court

Scale _____ Area No. _____ Ex _____ Prop. X Ult. _____ Sht. _____ of _____

Soil Group	Land Use or Zoning	Hydrologic Condition	% Imperv.	RCN Tbl. 2-2	RCN Fig. 2-3	RCN Fig. 2-4	Area (Ac)	RCN x Area
	Impervious			98			1.30	127.4
B	Open lawn			61			5.55	338.55
B-C	Open Lawn			74			0.43	31.82
B	Woods			55			2.95	162.25
B-C	Tennis Court			87			1.19	103.53

Total Sq. Mi. 0.0178 Total Acres: 11.42 763.55

Weighted RCN 66.86 Use 67

TIME OF CONCENTRATION

Soil Group	Type of Flow	L (ft)	n	A	Pw	Slope (%)	Vel. (fps)	Time (hrs)
B	Sheet Flow (table 3-1) (1)	100	0.24			2.5		0.217
	Shallow Conc. Flow (fig 3-1)							
C	___ paved X unpaved	100				4	3.2	0.009
	___ paved ___ unpaved							
	___ paved ___ unpaved							
	___ paved ___ unpaved							
	Channel Flow Manning							
D	Storm Drain	765	0.014				6	0.02

Total 0.246

(Use travel Time Comps on back of sheet)

Initial Abstraction Ia = _____ in. (Tbl. 5-1) Use Tc = 0.25 Tl = _____

Rainfall Freq.	2 Yr.	5 Yr.	10 Yr.	25 Yr.	50 Yr.	100 Yr.
Rainfall P.	in.	in.	in.	in.	in.	in.
csm/in						
Runoff Q" (2)	in.	in.	in.	in.	in.	in.
Peak Dischg (3)	cfs	cfs	cfs	cfs	cfs	cfs

(3) $= \frac{0.007 (nL)^{0.8}}{(P2)^{0.5} S^{0.4}}$ hr.

(2) $Q" = \frac{(P-0.2S)^2}{(P+0.8S)}$ where $S = \frac{1000}{CN} - 10$

Peak Discharge - Peak csm x Q" X area (Sq. Mi.)

DMW
Daft-McCune-Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
FAX: 296-4705

TR-55 DESIGN COMPUTATION

By: PSN Project: Baltimore C.C. Job Number: 82032.M1

Date: 5-8-96 Drainage Area: 1A (Bypass) Existing: ☐ Proposed: ☒ Ultimate: ☐

Sheet _____ of _____

Soil Group	Land Use or Zoning	Hydrologic Condition	Percent Imperv.	RCN Table 2-2	RCN Figure 2-3	RCN Figure 2-4	Area (Acre)	RCN x Area
B	Woods (To Remain)	Good		55			2.95	162.25
B	Lawn (To Remain)	Good		61			4.47	272.67
B-C	Lawn	Good		74			1.15	85.10
	Impervious			98			1.35	132.30
	Tennis Courts			87			1.45	126.15

Resources, Inc.
307 Jarrettsville Pike
oenix, Maryland 21131

-55 DESIGN COMPUTATION DA-2 (Sothern DA - by Pass) Project No.: 02144

Location Baltimore Country - Club Tennis Court

e Area No. ____ Ex ____ Prop. X Ult. ____ Sht. ____ of ____

up	Land Use or Zoning	Hydrologic Condition	% Imperv.	RCN Tbl. 2-2	RCN Fig. 2-3	RCN Fig. 2-4	Area (Ac)	RCN x Area
B	Woods			55			1.4	77
3	Lawn (to Remain)			61			0.33	20.13
2	Lawn (Change)			74			0.27	19.98
	Impervious			98			0.19	18.62

LMW
Daft•McCune•Walker, Inc.
200 East Pennsylvania Avenue
Towson, Maryland 21286
(410) 296-3333
FAX: 296-4705

TR-55 DESIGN COMPUTATION

By: PSN Project: Baltimore C.C. Job Number: 87032.M1

Date: 5-8-96 Drainage Area: 2 Existing: ☐ Proposed: ☒ Ultimate: ☐

Sheet _____ of _____

Soil Group	Land Use or Zoning	Hydrologic Condition	Percent Imperv.	RCN Table 2-2	RCN Figure 2-3	RCN Figure 2-4	Area (Acre)	RCN x Area
B	Lawn (To Remain)	Good		61			0.33	20.13
B	Woods (To Remain)	Good		55			1.40	77.00
B→C	Lawn	Good		74			0.24	17.76
	Impervious			98			0.19	18.62

If there are any questions regarding these comments, please contact me at 410-887-3980.

Sincerely,

Glenn Shaffer
Environmental Impact Review

c. Mr. Daniel White, Baltimore Country Club
Mr. Thomas Vidmar, Deputy Director

Bectrennistfbpp2.doc/sheir/glenn

DEPARTMENT OF ENVIRONMENTAL PROTECTION & RESOURCE MANAGEMENT
INTEROFFICE CORRESPONDENCE

TO: X Design & Review
☐ PDM
☐

DATE: June 21, 2004

PROJECT NAME: Baltimore Country Club Tennis Courts
TYPE OF PLAN: Grading/Sediment Control
PLAN/REV. DATE: Project #A033605 2nd Submittal

Staff of Environmental Impact Review have reviewed the subject submission. The following recommendations are made:

X Approved Disapproved

This project has been redesigned to clear no more than 39,000 square feet of forest, [illegible]. Therefore, while a forest stand delineation, forest conservation plan and forest conservation worksheet are no longer required, a Single Lot Declaration of Intent must be completed and filed with EIR prior to grading permit issuance or approval of any Environmental Agreement.

X An Environmental Agreement will be required.

X Channels exist onsite that may be regulated by the U.S. Army Corps of Engineers (COE) as Waters of the U.S. in accordance with the recent guidance found in the 2000 Nationwide Permit. These same areas may or may not be regulated by Baltimore County Code. You are advised that COE permits may be required to impact these channels. Based on these refined criteria, the COE can take jurisdiction on projects, including those under construction, and issue stop work orders and/or violation notices.

REVIEWER: Glenn Shaffer PHONE: 410-887-3980

Bcctennisscp2.doc/sheir/glenn

BALTIMORE COUNTRY CLUB

NEWS & VIEWS

March, 2003

Special Edition

Continuation of the BCC Long-Range Plan

In 1992, the membership of Baltimore Country Club voted to adopt a Master Plan which focused primarily on improvements to the Five Farms facility, to step forward with a progressive and functional consolidation of summer sporting activity and renovations to aging facilities. The result of the vote was a remarkable 87% to proceed with the project. Included in this 1992 Master Plan were:

- A new Pool facility
- Increased and more convenient parking
- New Golf House including Golf Storage area and Hitting Loft
- Renovation of the Five Farms Clubhouse
- Relocation of Tennis to Five Farms

Members have, over the course of the last decade, enjoyed the first four items noted. The improvements have been outstanding and continue to provide delight for our members. Additionally, the vast improvements have helped attract new member interest in joining Maryland's premier full service Club. As you know, the relocation of Tennis is the sole remaining element to complete the 1992 Master Plan.

Furthermore, between 1992 and today, several projects were mandated by law or were determined to be a priority due to needs expressed by the membership and the Board. These include the 1995 Golf Maintenance facility in which the Club's golf course chemicals and pesticides are stored; reorientation of the Squash Courts in 1997 to international play; construction of the Fitness Center in 1998; and the elevator at Roland Park, completed in 2001. All of these improvements have enhanced member enjoyment and continue to keep BCC a full service Club. As a result of these projects, the timing of relocating Tennis was delayed; however, the commitment to relocate remains a top priority. As a point of reference, during the past ten years, the above improvements, at a cost exceeding $16 million, have been accomplished without additional funding (assessment) by the membership.

Relocation of Tennis to Five Farms

As we continue the implementation of the 1992 Master Plan, the remaining element - relocation of Tennis to Five Farms - is now before us. The Planning and Tennis Committees have respectively reviewed the preliminary drawings and schematics of Tennis at Five Farms, and have developed a site plan which has been

of a portion of the land approximately defined by the boundaries of the Tennis facility at Roland Park. **This would not include the bottom of the hill directly below the Clubhouse.** We would be ardent in the creation of covenants and expect that the land will only be used for tennis or practice fields. This option remains viable as (1) the Club's "front yard" remains intact and (2) the risk of any adverse impact on the Club resulting from the sale of the land, or the buyer's use of the land, is minimized. However, the process of a partial land sale would not provide funding for all the projects listed previously. Therefore, we would supplement the process with additional debt at attractive financing rates and be in a position to accomplish our goals with minimal financial impact.

At the completion of the projects, our total outstanding debt would approximate the level of debt when the Five Farms Clubhouse was completed.

Current Status

The Club continues to receive inquiries about the potential sale of land at Roland Park and the current leadership believes it is incumbent upon us to bring the inquiries of interest to the membership. These inquiries include the entire 18 acres **or** only the Tennis courts and the Tennis facility. The sight line down the hill, the old bunker, would not be part of this partial sale.

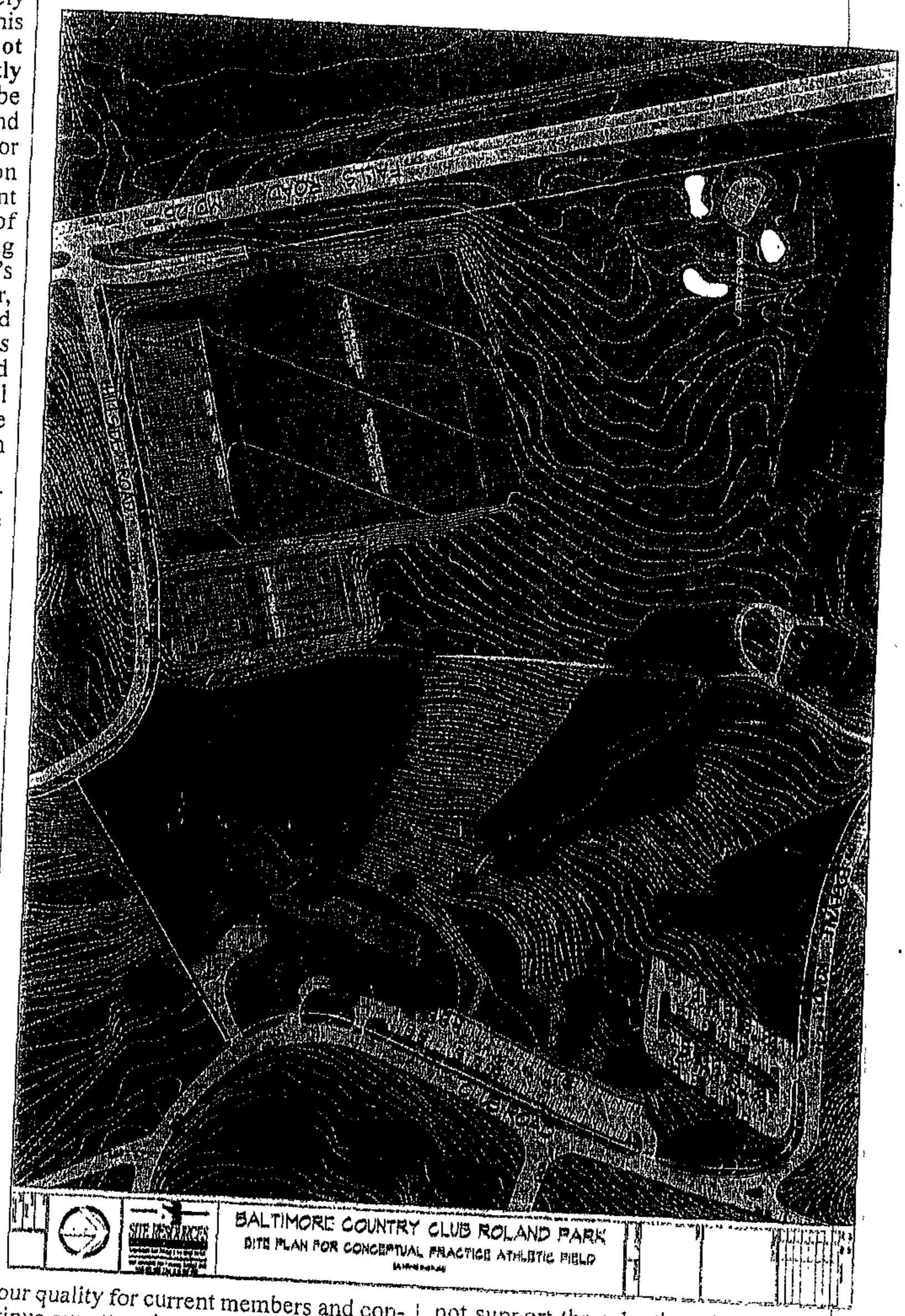
The inquiries are from local private schools that would wish to use the courts and convert a portion of the existing Tennis facility into two practice fields. Additionally, the Roland Park Community Foundation has expressed interest in purchasing the property to protect the area as open space. In all these circumstances, very strong covenants and legally binding parameters with regard to use of the property would be enforced and they would also give Baltimore Country Club the right of first refusal, should the buyer desire to sell in the future. It is the strong desire of the Board that the voting members express their position on this potential sale of Club real estate prior to entering into the negotiation stages with the selected buyer, to include setting minimum purchase prices. This will allow us to begin negotiations immediately and with the support of the membership. Therefore, as a voting member, you will be receiving additional details on this potential sale within the next few weeks.

Master Plan Implementation

As noted earlier, there are clearly identified needs if we are going to maintain our quality for current members and continue our attractiveness to new members. Moving the Tennis facility to Five Farms will have the highest immediate impact on attracting new members. This is a key issue in sustaining the current economics of the Club. Accordingly, maintaining two Tennis facilities is not financially practical or prudent. Therefore, the Board will bring these options to you and the required membership voting process will be initiated. The membership must ultimately decide the direction of the Club. The Board believes the full or partial land sale must be considered first and if the membership does not support the sale, the other option of debt and/or assessment will be pursued.

Baltimore Country Club has always set the standard of quality, and the next steps in the master plan are critical for us to continue as the premium Club in Maryland.

We look forward to the successful discussions and implementation of this phase of the master facility plan. The Club will always be a place you can consider to be your oasis and the place of choice to share with your family and guests. As in the past, we pledge first-class quality in our planning, our attention to value engineering and sound fiscal oversight.



in direct relationship to the business function" carried on across the street; but that it would not permit any "extension of this existing nonconforming use" either in area or for "functions which involved businesses outside and beyond the direct business use" across the street.

This declaration appears to rest upon an admixture of two dubious concepts. The first is that a parking lot is a parking lot is a parking lot, which is simply not so. The second, for want of a better description, appears to be a doctrine of "extended accessoryship" — *i.e.*, that if, prior to zoning, these lots were used for parking as an accessory to activities conducted on a lot across the street, they may, within the protective ambit of "nonconforming use", continue to be used for parking as an accessory to the activities conducted on that other lot no matter how the actual use of either parcel has changed since the advent of zoning. That too is inappropriate.

From their inception in 1945, the county zoning regulations have rejected the notion that all parking lots are the same, and have instead drawn careful distinctions between types of parking uses.[8] To do otherwise would blur obvious and important distinctions, given clear recognition by the courts, between the "parking" and the "storage" of vehicles,[9] between the parking or storage of commercial vehicles and the parking or storage of non-commercial vehicles,[10] between the business of renting parking spaces and parking as an accessory use,[11] and between parking *qua* parking and

8. *See, for example,* the original 1945 regulations: Section 1 — Definitions, ¶¶ 15, 16, and 17, distinguishing different types of garages; Section XIII-C, requiring a special exception for the use of land in a residential zone for the parking of automobiles and prohibiting thereon the parking of vehicles other than passenger cars. *See also* § 409 of the current county zoning regulations.

9. Monument Garage Corporation v. Levy, 194 N.E. 848 (N.Y., 1935): "There is a substantial distinction, clearly cognizable, between the meaning of 'storage' and 'parking'. One has a certain degree of permanency, while the other connotes transience." *See also* Service Realty Corp. v. Planning and Zoning Bd. of Ap., 109 A. 2d 256 (Conn., 1954); State v. Breidenbach, 213 N.E.2d 745 (Ohio, 1964).

10. Charles Land Co. v. Zoning Bd. of Review of Providence, 206 A. 2d 453 (R.I., 1965): variance for off-street parking of commercial vehicles in a residential zone denied where ordinance permitted variance only for parking of non-commercial vehicles. *See also* Dumais v. Somersworth, 134 A. 2d 700 (N.H., 1957); People v. Scrafano, 12 N.W.2d 325 (Mich., 1943).

11. State v. Gruber, 10 So. 2d 899 (La., 1942).

parking as part of a commercial enterprise.[12] All parking lots are not the same, and one type of parking use does not *necessarily* beget or permit another.[13]

The Board had established, in 1969, that the non-conforming use was for the transient parking of trucks and other vehicles as an adjunct to a restaurant business, and that the 1969 use was for the parking of trucks and other vehicles in conjunction with a fuel oil business. Both findings, we have stated, were supported by the record, at that time, and therefore should not be questioned now. By affirming the Zoning Commissioner in 1976, the Board concluded that, as of 1974, Mr. McKemy had expanded his use of the lots to include the "storage" of trucks (fuel oil and other), that the adjunctive or accessory use was not only in connection with a fuel oil business but general freight hauling as well, and that the trucking operations had expanded not only in intensity and volume, but also in area.

Upon those findings, it was incumbent upon the Board to determine, factually, whether those expanded uses represented a permissible intensification of the original use or an actual change from what the 1969 Board found existed in 1945 "to any other use whatsoever." In making that determination, the Board was not required to assume, and should not have assumed, that the lowest common denominator was "parking", or even "parking" in conjunction with a business across the street. In deciding whether the current activity is within the scope of the non-conforming use, the Board should have considered the following factors: [14]

(1) to what extent does the current use of these lots reflect the nature and purpose of the original non-conforming use;

(2) is the current use merely a different manner of utilizing the original non-conforming use or does it constitute a use different in character, nature, and kind;

12. City of Omaha v. Cutchall, 114 N.W.2d 6 (Neb., 1962).

13. *See, for example,* Cleland v. City of Baltimore, 198 Md. 440 (1951); Appeal of Yocom, 15 A. 2d 687 (Pa. Super., 1940); but *cf.* Kramer v. Town of Montclair, 109 A. 2d 292 (N.J. Super., 1954).

14. *See* New London v. Leskiewicz, 272 A. 2d 856 (N.H., 1970); Powers v. Building Inspector of Barnstable, 296 N.E.2d 491 (Mass., 1973); Board of Selectmen of Blackstone v. Tellestone, 348 N.E.2d 110 (Mass. App., 1976).

(3) does the current use have a substantially different effect upon the neighborhood;

(4) is the current use a "drastic enlargement or extension" of the original non-conforming use.[15]

The Board *undoubtedly had* some of these factors in mind, but its consideration of them was obviously flawed when it viewed the issue simply as "nonconforming parking in direct relationship to the business function" across the street. Because of its inappropriate reliance on that test, the Board failed to come clearly and completely to grips with these more relevant criteria. For that reason, and not because of any inherent unsoundness in the findings themselves, the conclusions of the Board as to whether the 1974 activities of Mr. McKemy with respect to Lot 442 and Lots 378-384, violate the county zoning regulations cannot stand. Instead, we shall remand that part of the case embodied in paragraphs numbers 1 and 2 of the 1974 order of the Zoning Commissioner to the Circuit Court with instructions that it, in turn, remand the case to the Board for reconsideration. The Board should consider not only whether, and to what extent, any such current uses exceed the permissible limits of the original non-conforming use, but, if it finds such excess, whether, by virtue of § 104.1 of the county zoning regulations, the entire non-conforming use has been lost.

II. *Bill No. 18-76*

Bill No. 18-76 was a comprehensive ordinance "to amend the Baltimore County Zoning Regulations to regulate truck oriented uses of property in Baltimore County" that was adopted by the County Council in March, 1976. Among other things, the ordinance defines and regulates "trucking facilities".

McKemy contends that, if his use of the lots in question qualifies, under Bill No. 18-76, as a "trucking facility", the county "must follow the restrictions set forth therein." There

15. Jahnigen v. Staley, 245 Md. 130 (1967); *Phillips* v. Zoning Commissioner, 225 Md. 102 (1961).

is nothing in the record, however, to indicate whether his operations do or do not qualify as a "trucking facility", and we are therefore unable to determine whether or not the ordinance applies. On remand, the Board of Appeals can consider the applicability of the ordinance and its effect, if applicable, upon any non-conforming use it may find to continue in existence.

Judgment of the Circuit Court for Baltimore County affirmed in part and reversed in part; case remanded to that court for remand to the County Board of Appeals of Baltimore County for reconsideration in conformance with this opinion; costs to be divided equally between the parties.

NELLIE M. MICHAEL *v.* LAURIE E. NEEDHAM ET AL.

[No. 956, September Term, 1977.]

Decided April 14, 1978.

EASEMENTS — *Right Of Way Of Necessity — Time Of Creation And Location — Easement By Implication — Unity Of Title — In Order To Establish A Right Of Way Of Necessity It Must Have Been Created By Implication In The Original Division Of The Unitary Tract Into Its Dominant And Servient Tenements — The Date For Determining Whether A Way Of Necessity Was Created By An Implied Reservation Is That Of The Contract Between The Original Parties And Not That Of The Ultimate Deed, And In This Case Where The Contracts Of Sale For The Dominant And Servient Tenements Were Executed Simultaneously, The Chancellor Was Correct In Finding That An Easement Of Necessity Did Exist, The More Liberal Implied Grant Rule Being Applicable — Where A Way Is Granted Without Fixing Its Location, But There Is A Way Already Located At The Time Of The Grant, Such A Way Will Be Held To Be The Location Of The Way, Unless A Contrary Intention Appears, And It Becomes As Definitely Established As If The Grant Or Reservation Had So Located It By Metes And Bounds And Can Only Be Changed By Agreement Of The Dominant And Servient Tenements — In The Present Case The Evidence Clearly Established Not*

Section 101
Definitions
[BCZR 1955]

Words used in the present tense include the future; words in the singular number include the plural number; the word "shall" is mandatory. For the purposes of these regulations, certain terms and words are defined below. **[Bill No. 149-1987]**

Any word or term not defined in this section shall have the ordinarily accepted definition as set forth in the most recent edition of Webster's Third New International Dictionary of the English Language, Unabridged. **[Bill No. 149-1987]**

ACCESSORY BUILDING — One which is subordinate and customarily incidental to and on the same lot with a main building. A trailer shall not be considered an accessory building. A structure connected to a principal building by a covered passageway or with one wall in common shall not be considered an accessory building.

ACCESSORY USE OR STRUCTURE — A use or structure which: (a) is customarily incident and subordinate to and serves a principal use or structure; (b) is subordinate in area, extent or purpose to the principal use or structure; (c) is located on the same lot as the principal use or structure served; and (d) contributes to the comfort, convenience or necessity of occupants, business or industry in the principal use or structure served; except that, where specifically provided in the applicable regulations, accessory off-street parking need not be located on the same lot. An accessory building, as defined above, shall be considered an accessory structure. A trailer may be an accessory use or structure if hereinafter so specified. An ancillary use shall be considered as an accessory use; however, a use of such a nature or extent as to be permitted as a "use in combination" (with a service station) shall be considered a principal use. **[Bill Nos. 100-1970; 26-1988]**[1]

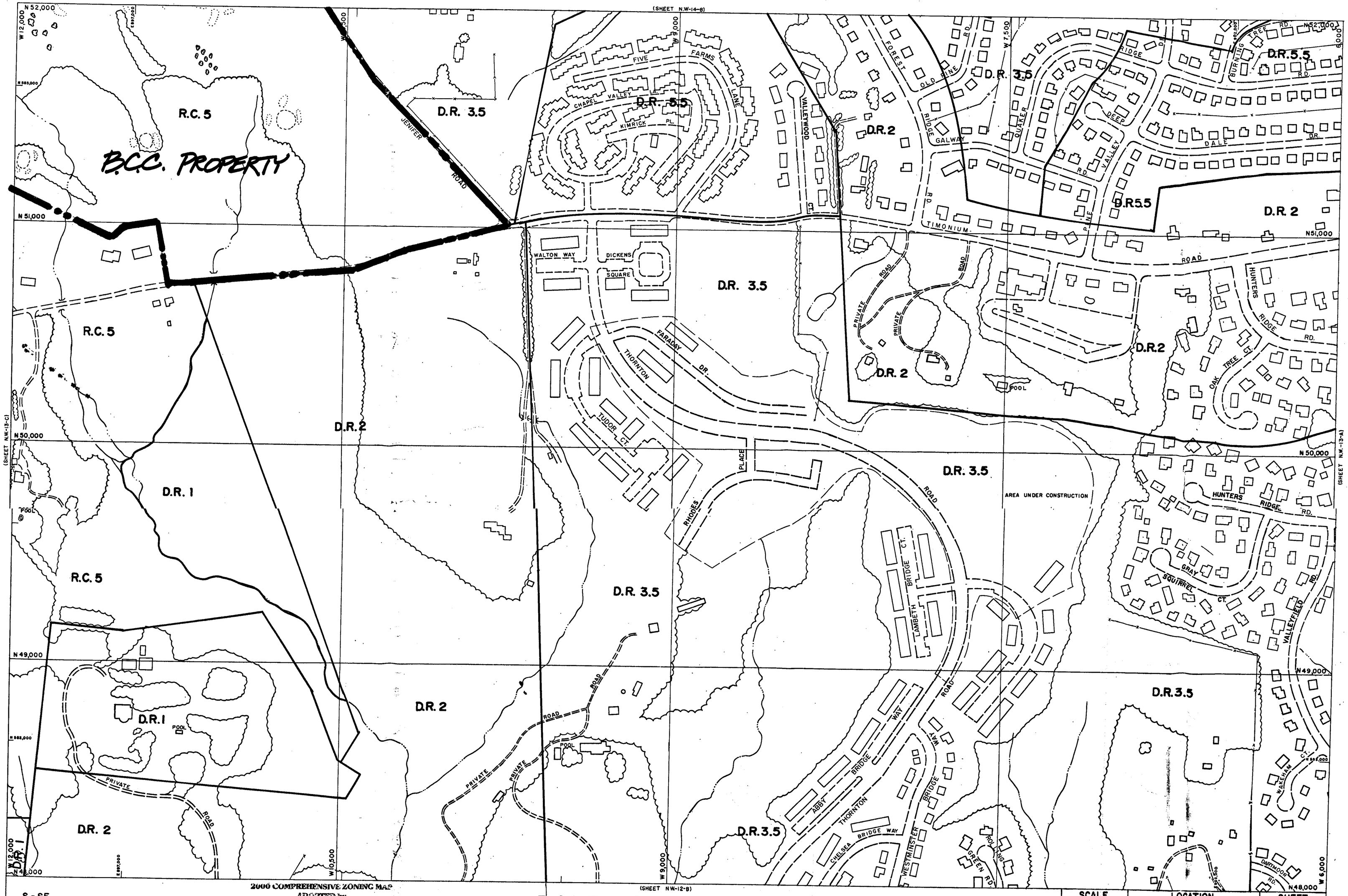
AGRICULTURE, COMMERCIAL — The use of land, including ancillary structures and buildings, to cultivate plants or raise or keep animals for income, provided that the land also qualifies for farm or agricultural use assessment pursuant to § 8-209 of the Tax-Property Article of the Annotated Code of Maryland, as amended. Commercial agriculture includes the production of field crops, dairying, pasturage agriculture, horticulture, floriculture, aquiculture, apiculture, viticulture, forestry, animal and poultry husbandry, the operation of an equestrian center, horse breeding and horse training and also includes ancillary activities such as processing, packing, storing, financing, managing, marketing or distributing, provided that any such activity shall be secondary to the principal agricultural operations. **[Bill Nos. 51-1993; 24-2002]**

AIRPORT — Any area of land or water designed and set aside for landing or taking off of aircraft.

ALLEY — A right-of-way 20 feet or less in width, designated as an alley on either an unrecorded or recorded plat or dedicated as such by deed, which provides service access for vehicles to the side or rear of abutting property.

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[1] **Editor's Note: The definition of "acreage, gross residential" which originally followed this definition was repealed by Bill No. 100-1970. The definition of "after-hours club," which followed thereafter, was repealed by Bill No. 36-2000.**



S - SE
S - NE

THIS MAP HAS BEEN REVISED IN SELECTED AREAS.
TOPOGRAPHY COMPILED BY PHOTOGRAMMETRIC METHODS
BY BUCHART-HORN, INC. BALTIMORE, MD. 21210

2000 COMPREHENSIVE ZONING MAP
ADOPTED by
THE BALTIMORE COUNTY COUNCIL
OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00;

James T. Smith, Jr.
Chairman, County Council

BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	TIMONIUM	N. W. 13-B
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 13 B

#600

B.C.C. PROPERTY

BOYCE PROPERTY

BALTIMORE COUNTRY CLUB

POOL

POOL

R.C. 5

R.C. 5

R.C. 5

R.C. 5

R.C. 2

R.C. 2

R.C. 5

D.R.1

D.R. 1

HILL FARM

GREEN SPRING VALLEY N.R.H.D.

BROOKLANDWOOD

WOODWARD

STA HOBBS

ST. PAULS SCHOOL FOR BOYS

TREADWELL CT.

WYNDAM CT.

TREMBLANT CT.

BROOKSTONE CT.

FALLS ROAD

WOODWARD LANE

PRIVATE ROAD

BROOKLANDWOOD RD.

DAM

PRIVATE ROAD

BOMONT ROAD

CHAPEL CT.

TIMONIUM RD.

PRIVATE ROAD

PRIVATE ROAD

PRIVATE ROAD

BALTIMORE CHAPEL ROAD

POWER LINE

ELECTRIC COMPANY

Deep Run

(SHEET N.W.-14-C)

(SHEET N.W.-13-D)

(SHEET N.W.-13-B)

(SHEET N.W. 12-C)

N 52,000 W 18,000 E 541,000 N 546,000

W 16,500

W 15,000

W 13,500

N 52,000 W 12,000 E 544,000 E 550,000

N 51,000

N 50,000

N 49,000

N 48,000 W 18,000 E 538,000

W 16,500

W 15,000

W 13,500

W 12,000 E 544,000

S-SW S-SE
S-NW S-NE

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Chairman, County Council

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1" = 200'±	TIMONIUM	N. W. 13-C
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 13 C

(SHEET N.W.15-C)

N-56,000 W-18,000 E-889,000 W-16,500 W-15,000 W-13,500 E-895,000 W-12,000

N-55,000 N-54,000 N-53,000 N-52,000

(SHEET N.W.14-D) (SHEET N.W.14-B)

POND

PRIVATE ROAD

FALLSWOOD TERR.

CHESTNUT RIDGE

R.C. 5

B.G.&E. CO. R/W

CHAPELWOODS RD.

CHAPEL RIDGE

MAYS CHAPEL ROAD

JENNIFER ROAD

CEM.

D.R. 5.5

PRIVATE ROAD

TANK

CHAPEL MAYS ROAD

SAND TRAPS

GREEN

BALTIMORE COUNTRY CLUB

B.C.C. PROPERTY

(SHEET N.W.13-C)

S-NW S-NE

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OFFICIAL ZONING MAP

SCALE	LOCATION	SHEET
1" = 200'±	BALTIMORE COUNTRY CLUB	N.W. 14-C
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 C

(SHEET N.W.-15-B)

D.R. 3.5 | D.R. 5.5 | D.R. 16 | D.R. 5.5 | D.R. 3.5 | ML-IM

AREA UNDER CONSTRUCTION

D.R.16 | D.R.5.5 | D.R.3.5 | D.R. 3.5

BALLYCROY CT. | RUTLEDGE RD. | MULLINGAR CT. | GLENAMOY RD. | GREENPOINT RD. | TULLYROSE CT. | BUSSING CT. | BUTTRICK CT. | DEERECO RD. | BALTIMORE-HARRISBURG EXPRESSWAY

N 56,000 | W 12,000 | E 897,000 | W 10,500 | W 9,000 | W 7,500 | N 589,000

N 55,000

SALTHILL CT. | BALLYCROY CT. | COLLIS CT. | AVESBURY RD. | BROMLEY CT. | ROLLIS CT. | C. ROTONA CT. | BLONDELL RD. | COVERT CT. | ARVERNE CT. | DARIA CT. | BELDEN CT.

D.R. 3.5 | D.R.3.5 | D.R.3.5 | D.R. 3.5

CHATTERTON | JENNIFER | MAYS CHAPEL RESERVOIR | INVERIN CIR. | MULRANY CT. | PONAGH CT. | GREENPOINT RD.

N 54,000

R.C. 5 | D.R. 3.5 | D.R.2 | D.R. 3.5

DUGNEY CT. | TEARMORE CT. | BARNABY CT. | FOOTHILL CT. | THAXTON RD. | ARVERNE CT.

ROAD | POND | PRESSWAY | VALLEY RIDGE COURT | VALLEY OAK CT. | PINE WOOD ELEM. SCH. | FLUME

N 53,000

B.C.C. PROPERTY

R.C. 5 | D.R. 3.5 | D.R.2 | D.R.3.5 | D.R.3.5 | D.R.3.5

FOREST RIDGE CT. | FOREST RIDGE ROAD | JODY WAY | GAILRIDGE RD. | GAILRIDGE COURT | OLD PINE COURT | PINE WOODFORD ROAD | RICKSWOOD ROAD | BRIGHT DALE ROAD | SANDEE DRIVE

W 12,000 | E 897,000 | W 10,500 | W 7,500 | N 52,000

D.R. 3.5 | D.R. 2 | D.R.5.5 | D.R.5.5

PINE FOREST COURT | BURNING TREE RD. W.

(SHEET N.W.-13-B)

(SHEET N.W.-14-A)

S-NE

2000 COMPREHENSIVE ZONING MAP
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OCTOBER 10, 2000
Bills Nos. 87-00, 88-00, 89-00, 90-00, 91-00, 92-00, 93-00,

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SCALE	LOCATION	SHEET
1" = 200'±	TIMONIUM	N.W. 14-B
DATE OF PHOTOGRAPHY JANUARY 1986		

NW 14 B

xing Notes

altimore Country Club at Five Farms Special Exception Petition

This petition seeks a special exception for a country club only for Parcels A and B. The balance of the Baltimore Country Club property was approved previously as a nonconforming country club and is not the subject of this petition for special exception. This petition applies only to Parcels A and B. This petition for special exception does not modify or amend the nonconforming status of the Baltimore Country Club property, the uses or improvements permitted thereon, or the March 5, 1993, order of the Zoning Commissioner in Case 93-37 SPH except for Parcels A and B.

Parcel A will be devoted to tennis courts, related parking, and retention of the existing dwelling which will be limited to residential use. Parcel B is devoted to parts of the fairway and the green for the third hole of the west course.

Hours of Operation - Tennis courts will be utilized only between 9 a.m. and dusk.

The tennis courts will not be lighted. Any other site lighting shall be directed so as to not shine upon adjoining residential premises or oncoming vehicles.

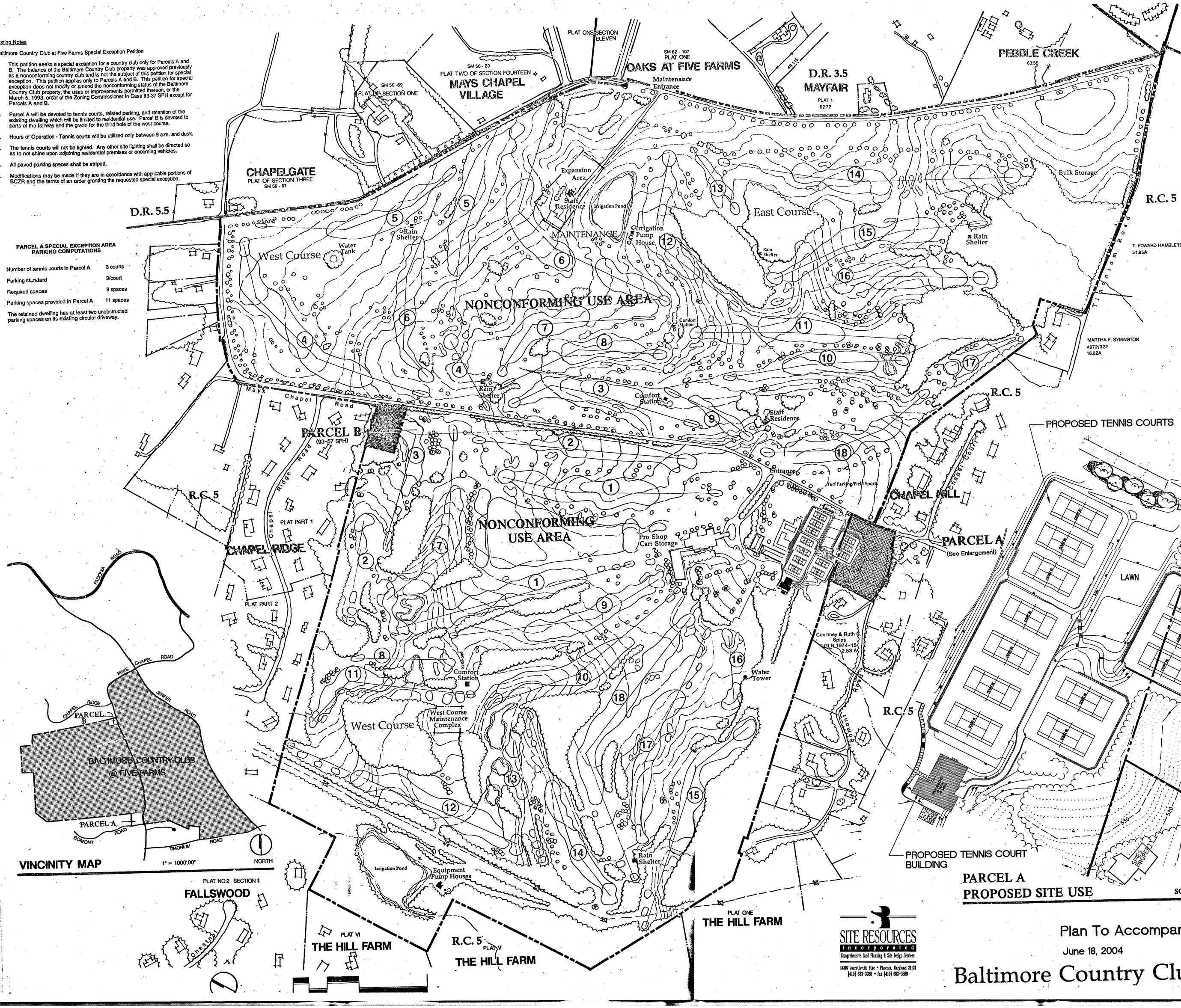
All paved parking spaces shall be striped.

Modifications may be made if they are in accordance with applicable portions of BCZR and the terms of an order granting the requested special exception.

PARCEL A SPECIAL EXCEPTION AREA PARKING COMPUTATIONS

Number of tennis courts in Parcel A	3 courts
Parking standard	3/court
Required spaces	9 spaces
Parking spaces provided in Parcel A	11 spaces

The retained dwelling has at least two unobstructed parking spaces on its existing circular driveway.



VINCINITY MAP 1" = 1000'.00" NORTH

General Notes

1. The address of Baltimore Country Club at Five Farms is:

   11500 Mays Chapel Road
   Timonium, MD 21093
   (410) 889-1400

2. Election District 8; County Council District 2

3. Zoning History

   Zoning Case 93-37 SPH. On March 5, 1993, the Zoning Commissioner issued an order establishing that those portions of the club included in its ownership as of September 26, 1963, are a valid, non-conforming country club use and approving modifications.

   The order denied the right to extend the non-conforming country club use to three properties not included in its ownership as of September 26, 1963. This petition seeks a special exception for two parcels, A and B, to authorize their use as a country club. The third parcel is not improved so as to require authorization by special exception.

   Zoning Case 97-384-SPH. Special Exception to authorize the case of adjoining residential parcels (parcel A, the "Boyce" Property) as a country club, including three tennis courts and a parking lot.

4. Zoning of the club and adjacent properties are as shown.

5. The names of adjoining subdivisions are as shown.

6. Existing streets are as shown. Public utilities - water, fire hydrants, sewer, and storm drains exist on Jenifer Road. They are not relevant to this petition and are not shown for purposes of clarity.

7. There are no signs on the country club property other than directional signs as authorized by Section 413.1E.(3). Any future sign shall comply with the requirements of Section 413.1 as limited by the provisions of Section 413.5 BCZR.

8. All streams and stormwater management areas within 50 feet are shown.

9. The site is served by public water and currently by on-site sewage disposal. These are not relevant to the non-conforming status of the club and are not shown for purposes of clarity. Water and Sewerage Plan amendment, Cycle 10, Issue 92-03, has requested that the club be allowed to connect to the public sewerage system. In accordance with staff and Planning Board recommendations, the County Council has amended the plan to show it as a continued area of no planned service, but granted a special exception for a sewer connection serving only Baltimore Country Club.

10. Building heights do not exceed the permitted 35 feet.

11. Parking provided under existing conditions for the total club comprises 233 spaces and 290 spaces under proposed conditions. Any overflow parking is and has been accommodated in the turf parking portion of the existing club.

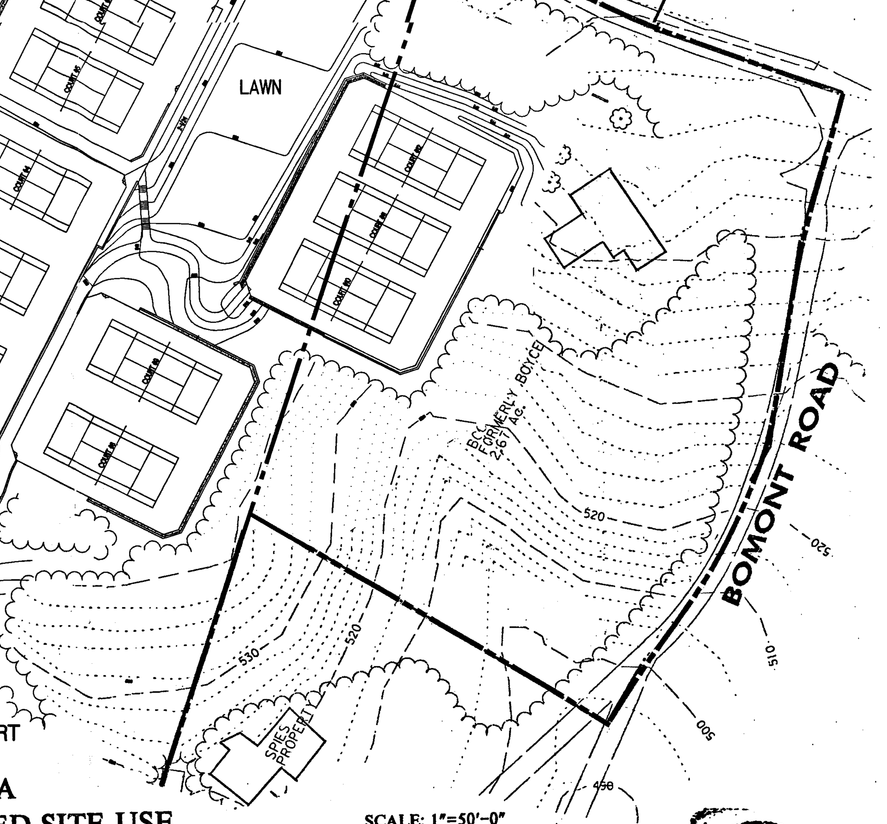
12. Tennis courts will be screened and buffered with 10 to 12 foot high evergreen hedges. See plan of Parcel A for details of the tennis component of the club.

13. Three historical buildings are adjacent to the club and are listed on the Maryland Historical Trust Inventory. They are:

    a. 11840 Mays Chapel Road; the Ridge School - BA-970.

    b. 11900 Mays Chapel Road; stone church and cemetery - BA-1890

    c. 11901 Mays Chapel Road; frame building and cemetery - BA-948



SITE RESOURCES Incorporated
Comprehensive Land Planning & Site Design Services
14307 Jarrettsville Pike • Phoenix, Maryland 21131
(410) 683-3388 • fax (410) 683-3389

Plan To Accompany Special Hearing

June 18, 2004

Baltimore Country Club at Five Farms